



# FEDERAL REGISTER

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Federal Register

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

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 557

[Docket No. FSIS-2017-0024]

#### Import Reinspection of Fish of the Order Siluriformes

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notification of regulatory enforcement.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing that starting August 2, 2017, all shipments of imported Siluriformes fish and fish products entering the United States (U.S.) must be presented at an Official Import Inspection Establishment for reinspection by FSIS personnel.

**DATES:** Beginning August 2, 2017, FSIS will enforce the regulations in 9 CFR part 557 (9 CFR 557.1–557.8, 557.10–557.19 and 557.24–557.26). All shipments of imported Siluriformes fish and fish products must be presented at an Official Import Inspection Establishment for reinspection by FSIS personnel beginning August 2, 2017.

**FOR FURTHER INFORMATION CONTACT:** Roberta Wagner, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 2, 2015, FSIS published the final rule, “Mandatory Inspection of Fish of the Order Siluriformes and Products Derived from Such Fish,” establishing a mandatory inspection program for fish of the order Siluriformes (80 FR 75590). The final rule set forth regulations in accordance with the provisions of the 2008 and 2014 Farm Bills, which amended the Federal Meat Inspection Act (FMIA) to

include all fish of the order Siluriformes as amenable species and specifically provided for the inspection of Siluriformes fish and fish products to be used as human food. The regulations include a new part 557 (9 CFR 557.1–557.8, 557.10–557.19 and 557.24–557.26), “Importation,” which, among other things, requires that all fish and fish products from any foreign country be reinspected before entering the U.S. (9 CFR 557.6(a)(1)).

The final rule was effective on March 1, 2016, but provided an 18-month transitional period until September 1, 2017, to ensure an orderly transition from Food and Drug Administration (FDA) regulatory oversight to the FSIS mandatory fish inspection program. During the transitional period, the Agency is exercising broad discretion in enforcing the new regulatory requirements, except when product is determined to be adulterated (*e.g.*, the product contains a violative residue or is contaminated) or misbranded (*e.g.*, the product is missing a label).

The final rule stated that during the transitional period, imported fish and fish products would be reinspected and subjected to species and residue testing on at least a quarterly basis for each foreign establishment eligible to export fish to the U.S. Further, as discussed in the preamble of the final rule, at the end of the 18-month transitional period, all imported Siluriformes fish and fish product shipments would be reinspected, just as all imported meat and poultry products are reinspected (80 FR 75608). FSIS began selecting shipments of imported Siluriformes for reinspection and residue testing on April 15, 2016.

#### Reinspection of All Imported Shipments of Siluriformes Fish and Fish Products

The explanatory statement accompanying the Consolidated Appropriations Act, 2017, Public Law 115–31 Stat. 135, enacted May 5, 2017, directs FSIS to begin reinspecting all imported Siluriformes fish and fish product shipments upon the date the Act is enacted (<https://www.congress.gov/crec/2017/05/03/CREC-2017-05-03-bk2.pdf>). FSIS is issuing this notification announcing that beginning August 2, 2017, all shipments of imported Siluriformes fish and fish product must be presented at an Official

Import Inspection Establishment for reinspection by FSIS personnel.

To apply for import reinspection, applicants, typically the Importer of Record, must submit a paper or an electronic inspection application form (FSIS Form 9540–1) to FSIS in advance of the shipment’s arrival, but no later than when the entry is filed with the U.S. Customs and Border Protection (CBP) (9 CFR 557.5). The applicant must identify, on the application, the official import inspection establishment where reinspection will occur. The paper import inspection application is available on line at: <https://www.fsis.usda.gov/wps/wcm/connect/a8eead0d-23c3-428e-937f-a8a05b09edbb/FSIS-9540-1-Import-Inspection-Application.pdf?MOD=AJPERES>.

After August 2, 2017, FSIS will begin taking action in regard to imported fish product that has bypassed FSIS import reinspection, but entered commerce, *i.e.* “failure to present” (FTP) product.

FSIS will be posting reinspection guidance materials on its Siluriformes Web page <https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/siluriformes>.

A list of Official Import Inspection Establishments available to reinspect Siluriformes fish is available on the FSIS Siluriformes Web page <https://www.fsis.usda.gov/wps/wcm/connect/b58fa982-8029-4ccb-88c1-1663f32070d9/Siluriformes-I-Houses.pdf?MOD=AJPERES>.

FSIS also strongly encourages importers and brokers to communicate and coordinate closely with your FSIS District Office, to facilitate full compliance prior to August 2, 2017 <https://www.fsis.usda.gov/wps/portal/informational/districtoffices>.

In addition, the Agency will announce any additional information in the Agency’s Constituent Update (<http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituentupdates>).

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Done at Washington, DC, on June 26, 2017.

**Alfred V. Almanza,**  
*Administrator.*

[FR Doc. 2017-13644 Filed 6-30-17; 8:45 am]

BILLING CODE 3410-DM-P

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

### 10 CFR Part 1703

[Docket No. DNFSB-2017-0001]

RIN 3155-AA00

#### Freedom of Information Act

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Final rule.

**SUMMARY:** The Freedom of Information Act (FOIA) Improvement Act of 2016 requires each Federal agency to issue regulations implementing its statutory provisions. In this final rule, the Defense Nuclear Facilities Safety Board amends its regulations to comply with the statutory direction.

**DATES:** This rule is effective on July 26, 2017.

#### FOR FURTHER INFORMATION CONTACT:

James Biggins, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004-2901, (202) 694-7000.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Defense Nuclear Facilities Safety Board (DNFSB) implements the Freedom of Information Act through its regulations found at 10 CFR part 1703. This rule amends the DNFSB's regulations to incorporate certain changes made to the FOIA, 5 U.S.C. 552, by the FOIA Improvement Act of 2016 (Pub. L. 114-185, 130 Stat. 538 (2016)). The FOIA Improvement Act also requires agency regulations to address dispute resolution procedures and to provide notification to requestors about the availability of dispute resolution services. The FOIA Improvement Act requires the DNFSB to issue regulations which incorporate the changes made by the FOIA Improvement Act. This rule updates the DNFSB regulations in 10 CFR part 1703 to reflect those statutory changes.

The FOIA Improvement Act requires a change to the DNFSB's fee schedule, which will be updated in a separate notice. The fee schedule was last published in the **Federal Register** on August 28, 2015, 80 FR 52174. Pursuant to the FOIA Improvement Act, the DNFSB will not assess any search fees if it has failed to comply with any time limit for response to the request absent an extension of its time limit.

The FOIA Improvement Act requires agencies to designate a FOIA Public Liaison and also elevates the responsibility of the Chief FOIA Officer.

Additionally the Act adds to the agency record reporting requirements. The DNFSB will provide this information through its FOIA electronic reading room. The Chief FOIA officer is the DNFSB Deputy General Manager, and will designate a FOIA Public Liaison. Information about how to contact the FOIA Public Liaison will be available through the DNFSB FOIA electronic reading room.

The DNFSB is issuing this rule as a final rule without the opportunity for public comment. The agency finds, for good cause, that allowing for notice and public comment is unnecessary. The changes made to the DNFSB implementing regulations reduce the burden on requestors, provide additional dispute resolution alternatives, and require the DNFSB to meet its response deadlines or waive the fees in whole or in part. The changes to the regulations are mandated by statute. The DNFSB has also reviewed public comments provided to other Federal agencies that have issued their regulations for public comment, and the DNFSB has used those comments to inform its regulations.

##### II. Regulatory Analysis

###### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, agencies must consider the impact of their rulemakings on "small entities" (small businesses, small organizations, and local governments). The DNFSB has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This rule decreases the regulatory burden for requestors under FOIA, waives fees under certain circumstances, and provides additional dispute resolution options. Additionally, the agency received 21 FOIA requests in fiscal year 2016 and charged \$0.00 in fees. The DNFSB therefore determines and certifies that these amendments to its FOIA implementing regulations will not have a significant economic impact on a substantial number of small entities.

###### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, as amended, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

*Paperwork Reduction Act*

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a "collection of information." 44 U.S.C. 3501–3520. The amendments to the DNFSB regulations implementing FOIA are required by the FOIA Improvement Act of 2016. The amendments to the DNFSB regulations do not require or request information, but rather, explain the agency's FOIA procedures. Submitting a request for agency records under FOIA is voluntary, so the information collected from requestors is not covered by the restrictions of the PRA.

*Executive Order 12988 and Executive Order 13132—Federalism*

According to Executive Orders 12988 and 13132, agencies must state in clear language the preemptive effect, if any, of new regulations. The amendments to the agency's FOIA implementing regulations affect only FOIA requests submitted to the agency, and therefore, have no effect on preemption of State, tribal, or local government laws or otherwise have federalism implications.

*Congressional Review Act*

This rule will not result in and is not likely to result in (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. As such, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

*Finding of No Significant Environmental Impact*

The proposed regulations amend the DNFSB procedures for processing FOIA requests. The procedural changes to the FOIA implementing regulations will not result in significant impacts affecting the quality of the human environment, unavoidable adverse environmental effects, rejection of reasonable alternatives to the proposed action, or irreversible or irretrievable commitments of environmental resources. The agency has not consulted with any other agencies in making this determination.

**III. Section by Section Analysis***Section 1703.103 Requests for Board Records Available Through the Public Reading Room*

Paragraph (a) is revised to identify the transition from a physical public reading room to an electronic public reading room. The FOIA Improvement Act mandates that certain records previously made available to the public through a public reading room, now be available for public inspection in an electronic format. The DNFSB has been in the practice for several years to make its FOIA records publicly available in an electronic format on its public Web site (<https://www.dnfsb.gov>). The DNFSB FOIA records will be available through its electronic reading room on its Web site (<https://www.dnfsb.gov/foia-reading-room>).

*Section 1703.104 Board Records Exempt From Public Disclosure*

The Board is removing this section as unnecessary. The Board will apply the exemptions allowed by the FOIA, as amended, in determining whether to withhold a document from disclosure pursuant to a FOIA request. The restatement of the FOIA exemptions in its regulation does not expand or narrow the scope of the exemptions and is unnecessary for either implementation or interpretation.

*Section 1703.107 Fees for Record Requests*

The Board is amending this section to make explicit the waiver of fees if the Board does not meet its response deadlines under the FOIA Improvement Act.

*Section 1703.109 Procedure for Appeal or Denial of Requests for Board Records and Denial of Requests for Fee Waiver or Reduction*

The Board is amending this section to provide notice of availability of assistance from the agency FOIA Public

Liaison and the Office of Government Information Services. The DNFSB will work with the Office of Government Information Services on any issue referred to them for alternative dispute resolution. The FOIA Improvement Act provides the right of a requestor to seek assistance with the FOIA request or to seek dispute resolution services. The section is also being amended to allow an appeal from an adverse decision on access within 90 days of the denial.

**List of Subjects in 10 CFR Part 1703**

Freedom of information.

For the reasons stated in the preamble, the Defense Nuclear Facilities Safety Board amends 10 CFR Chapter 17, part 1703 as follows:

**PART 1703—PUBLIC INFORMATION AND REQUESTS**

■ 1. The authority citation for part 1703 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 552; 31 U.S.C. 9701; 42 U.S.C. 2286b.

■ 2. Amend section 1703.103 by revising the section heading and paragraphs (a) and (b) introductory text to read as follows:

**§ 1703.103 Requests for agency records available through the electronic reading room.**

(a) The DNFSB will maintain an electronic reading room on its public Web site at <https://www.dnfsb.gov/foia-reading-room>. Records may be obtained by accessing and downloading them from the electronic reading room. The electronic reading room is intended to provide easy accessibility to a substantial collection of the agency's records. The agency considers the records available through its electronic reading room to have been placed in the public domain.

(b) The public records of the agency that are available in the electronic reading room or through links from the electronic reading room include:

\* \* \* \* \*

**§ 1703.104 [Removed and Reserved]**

■ 3. Remove and reserve § 1703.104.

■ 4. Amend § 1703.107 by adding paragraph (b)(2)(iv) to read as follows:

**§ 1703.107 Fees for record requests.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) The Board will not assess any fees if it has failed to meet its deadlines in § 1703.108.

\* \* \* \* \*

■ 5. Amend § 1703.109 by revising paragraph (a) to read as follows:

**§ 1703.109 Procedure for appeal of denial of requests for board records and denial of requests for fee waiver or reduction.**

(a)(1) A person whose request for access to records in whole or in part may appeal that determination to the General Counsel within 90 days of the determination. A person denied a fee waiver or reduction may appeal that determination to the General Counsel within 30 days. The person may also seek assistance from the FOIA Public Liaison of the agency. Appeals filed pursuant to this section must be in writing, directed to the General Counsel at the address indicated in § 1703.105(b)(2), and clearly marked "Freedom of Information Act Appeal." Such an appeal received by the Board not addressed and marked as indicated in this paragraph will be so addressed and marked by Board personnel as soon as it is properly identified and then will be forwarded to the General Counsel.

(2) The General Counsel shall make a determination with respect to any appeal within 20 working days after the receipt of such appeal. If, on appeal, the denial of the request for records or fee reduction is in whole or in part upheld, the General Counsel shall notify the person making such request of the provisions for judicial review of that determination.

(3) The requestor may request that the FOIA Public Liaison refer the denial to be reviewed through dispute resolution services or may request the Office of Government Information Services within the National Archives and Records Administration to review the denial.

\* \* \* \* \*

Dated: June 27, 2017.

**Sean Sullivan,**  
Chairman.

[FR Doc. 2017-13863 Filed 6-30-17; 8:45 am]

**BILLING CODE 3670-01-P**

**FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL**

**12 CFR Part 1101**

**[Docket No. FFIEC-2017-0002]**

**Description of Office, Procedures, and Public Information; Correction**

**AGENCY:** Federal Financial Institutions Examination Council (FFIEC).

**ACTION:** Interim final rule with request for comments; correcting amendments.

**SUMMARY:** The Federal Financial Institutions Examination Council (FFIEC or Council) is correcting an interim final rule announcing revisions

and additions to its information disclosure regulations under the Freedom of Information Act (FOIA Regulations). This interim final rule replaces the interim final rule published in the **Federal Register** on December 27, 2016. The Council invites comments on this interim final rule revising its regulations implementing the Freedom of Information Act (FOIA). These revisions implement recent statutory amendments to the FOIA that are mandated by the FOIA Improvement Act of 2016, as well as update the language of the Council's regulations to more closely mirror the language of the FOIA and to reflect the Council's current FOIA procedures. This interim final rule also corrects three typographical errors that occurred when the Council's FOIA Regulations were last amended by a final rule appearing in the **Federal Register** on November 22, 2010.

**DATES:** Effective July 3, 2017. Comments must be received on or before September 1, 2017.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interim final rule, identified by "Federal Financial Institutions Examination Council: Docket No. FFIEC-2017-0002," by any of the following methods:

- **Electronic submission of comments:** Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

- **Facsimile:** (703) 562-6446.
- **Mail:** Ms. Judith Dupre, Executive Secretary, FFIEC, Attn: Executive Secretary, 3501 Fairfax Drive, Room B-7081a, Arlington, VA, 22226-3550.

- **Public Inspection of Comments:** In general, the Council will enter all comments received into the docket and publish them on the [www.regulations.gov](http://www.regulations.gov) Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Please be advised that your comments, including attachments and other supporting materials, are part of the

public record and available for public inspection. Please do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. You may review comments and other related materials that pertain to this notice of proposed rulemaking electronically by following the instructions at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judith Dupre, Executive Secretary, Federal Financial Institutions Examination Council, via telephone: (703) 516-5590, or via email: [JDupre@FDIC.gov](mailto:JDupre@FDIC.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Council<sup>1</sup> is publishing an interim final rule revising its information disclosure regulations under the Freedom of Information Act<sup>2</sup> (FOIA Regulations). On June 30, 2016, the Freedom of Information Act (FOIA) was amended by the FOIA Improvement Act of 2016<sup>3</sup> (FOIA Improvement Act). Among other things, section 3 of the FOIA Improvement Act required each Federal agency to revise its disclosure regulations and procedures for processing FOIA requests in order to conform to the substantive amendments made by section 2 of the FOIA Improvement Act by December 27, 2016. Accordingly, the Council is implementing the required substantive and procedural changes necessary to comply with the FOIA Improvement Act's amendments (such as changing the appeal deadline from 10 working days to 90 days and providing additional limitations on the fees charged by the Council). In addition, the Council is making certain changes to its FOIA Regulations to reflect revisions brought about by prior amendments to the FOIA that were incorporated into the Council's procedures and to make the FOIA process easier for the public to navigate (such as providing an email address where administrative appeals may be submitted electronically). In drafting these amendments to the FOIA Regulations, the Council consulted the "Guidance for Agency FOIA Regulations" issued by the U.S.

<sup>1</sup> The members of the Council are the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the State Liaison Committee.

<sup>2</sup> 5 U.S.C. 552.

<sup>3</sup> Public Law 114-185, 130 Stat. 538 (June 30, 2016).

Department of Justice's Office for Information Policy.

The Council is also correcting technical and typographical errors that occurred when the Council's FOIA Regulations were last revised and published as a final rule in the **Federal Register** on November 22, 2010 (75 FR 71014). That publication resulted in the inadvertent duplication of two provisions in the Council's FOIA Regulations and the inadvertent omission of one provision. Accordingly, this interim final rule removes the duplicative provisions and reinserts the provision that was inadvertently deleted when the Council's FOIA Regulations were last amended in 2010. The following is a section-by-section discussion of the changes.

The Council initially published a final rule announcing the above changes on December 27, 2016 (81 FR 94937), and is hereby correcting that interim final rule to allow for a public comment period and to implement the changes set forth below.

## II. Section-by-Section Analysis

This interim final rule amends the Council's FOIA Regulations in 12 CFR 1101.4, as described below.

To implement the mandatory requirements made by the FOIA Improvement Act, the Council is revising § 1101.4(a) to clarify that the Council records available for public inspection pursuant to 5 U.S.C. 552(a)(2) include records released for a FOIA request three or more times or that are likely to become the subject of subsequent FOIA requests, and that such records will be made available in electronic format.

In accordance with the amendments made by the FOIA Improvement Act, the Council is also revising § 1101.4(b)(1) and (2) to reflect that information will only be withheld if the Council reasonably foresees that disclosure would harm an interest protected by a FOIA exemption or if disclosure is prohibited by law, and to reflect that the deliberative process privilege only protects records that were created less than 25 years before the date when the records were requested.

In order to implement the recent amendments made by the FOIA Improvement Act and prior amendments to the FOIA, the Council is revising § 1101.4(b)(3)(v)(A) to provide that, whenever the Council extends the 20-day response time for a FOIA request by more than ten working days due to unusual circumstances, the Council's FOIA Public Liaison is available to assist the requester in modifying the scope of their FOIA request and that the

requester may seek dispute resolution services from the Office of Government Information Services ("OGIS") or from the Council's FOIA Public Liaison.

The Council is revising § 1101.4(b)(3)(v)(B)(3) to provide that all determination letters from the Executive Secretary will advise requesters of their right to seek assistance from the Council's FOIA Public Liaison, which reflects a procedural change required by the FOIA Improvement Act.

To implement the FOIA Improvement Act's amendments to the FOIA with respect to appeals, the Council is revising § 1101.4(b)(3)(v)(B)(4) and (b)(3)(vi) to provide that, in the case of an adverse determination, requesters must be informed of the right to seek dispute resolution services from the Council's FOIA Public Liaison or OGIS, and that requesters have 90 days to file an administrative appeal (extended from the prior deadline of 10 working days). Relatedly, in order to mirror the more expansive language of the FOIA and to reflect the Council's current practice, the Council is updating the language in § 1101.4(b)(3)(v)(B)(4) and (b)(3)(vi) to clarify that a requester has the right to administratively appeal any "adverse determination" (not just to appeal the denial or partial denial of a request for records). The new language in paragraph (b)(3)(v)(B)(4) of this section also provides examples of the adverse determinations that may be appealed. In paragraph (b)(3)(vi) of this section, the Council is adding language to inform members of the public that they have the additional option to submit administrative appeals via email and providing an email address for members of the public to use to send such administrative appeals.

The Council is amending § 1101.4(b)(4)(i) to reflect that records will also be made available to requesters for public inspection in electronic format as required by the FOIA Improvement Act's amendments to the FOIA.

The FOIA Improvement Act's amendments to the FOIA restrict an agency's ability to charge search or duplication fees in certain circumstances. The Council is revising § 1101.4(b)(5)(ii) introductory text and (b)(5)(ii)(G) to reflect the statutory restrictions on charging fees.

In § 1101.4(b)(5)(ii)(E), the Council is replacing the words "Council personnel" with "the Council's FOIA Public Liaison," in order to identify a specific point of contact whom members of the public can contact.

The Council is also correcting three technical errors that occurred when the Council's FOIA Regulations were

revised in 2010. Section 1101.4(b)(5)(iii)(A) and (b)(5)(iv) were both amended as published in a final rule in the **Federal Register** on November 22, 2010 (75 FR 71014).<sup>4</sup> However, both the original version and the revised version of these paragraphs inadvertently remained in the final rule that appeared in the **Federal Register** on November 22, 2010 (75 FR 71014). Accordingly, the Council is deleting the first appearance of paragraph (b)(5)(iii)(A), deleting the second appearance of paragraph (b)(5)(iv), and making minor grammatical edits to the current paragraph (b)(5)(iii)(A). In addition, the Council is reinserting § 1101.4(b)(5)(v), which was inadvertently removed from the final rule that appeared in the **Federal Register** on November 22, 2010 (75 FR 71014) due to a publication error.

## III. Request for Comments

The Committee invites comment on all aspects of the interim final rule.

## IV. Administrative Law Matters

### A. Administrative Procedure Act

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." As discussed above, this interim final rule implements the substantive amendments made by the FOIA Improvement Act. Congress provided Federal agencies with no discretion in amending their information disclosure regulations to comply with the statutory amendments made to the FOIA, and required that such conforming amendments become effective by December 27, 2016. Additionally, the three revisions fixing prior publishing errors are merely technical corrections to provisions that were already subject to public notice and the opportunity to comment. The other revisions bring the language of the Council's FOIA Regulations into alignment with the more expansive language of the FOIA, reflect the Council's current procedures, and provide the public with expanded benefits.

Given that the substantive amendments to the Council's FOIA Regulations are mandated by the FOIA Improvement Act and were required to

<sup>4</sup> The amendments to § 1101.4(b)(5)(iii)(A) and (b)(5)(iv) were subject to public notice and comment in the notice of proposed rulemaking that appeared in the **Federal Register** on September 3, 2010 (75 FR 54052).

be implemented by December 27, 2016, and that the other amendments are technical in nature or expand the rights of the public, the Council for good cause finds that prior notice and comment on this rulemaking is impracticable, unnecessary, and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). For these same reasons, the Council finds good cause to dispense with the 30-day delayed effective date otherwise required by 5 U.S.C. 553(d)(3). While the interim final rule is effective immediately upon publication, the Council is inviting public comment on the interim final rule during a 60-day period and will consider all comments in developing a final rule.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, applies only to rules for which an agency publishes a general notice of proposed rulemaking. Because the Council has determined for good cause that a notice of proposed rulemaking for this rule is unnecessary, the Regulatory Flexibility Act does not apply to this final rule. 5 U.S.C. 601(2).

#### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is inapplicable because this interim final rule does not create any new, or revise any existing, information collection requirements under the Paperwork Reduction Act.

#### D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all rules published after January 1, 2000. In light of this requirement, the Council has sought to present the interim final rule in a simple, comprehensible, and straightforward manner. The Council invites comment on whether the Council could take additional steps to make the rule easier to understand.

#### List of Subjects in 12 CFR Part 1101

FOIA exemptions, Freedom of information, Schedule of fees, Waivers or reductions of fees.

#### Authority and Issuance

For the reasons set forth in the preamble, the Council amends 12 CFR part 1101 as follows:

#### PART 1101—DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

■ 1. The authority citation for part 1101 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 3307.

■ 2. Revise § 1101.4 to read as follows:

#### § 1101.4 Disclosure of information, policies, and records.

(a) *Statements of policy published in the Federal Register or available for public inspection in an electronic format; indices.* (1) Under 5 U.S.C. 552(a)(1), the Council publishes general rules, policies and interpretations in the **Federal Register**.

(2) Under 5 U.S.C. 552(a)(2), policies and interpretations adopted by the Council, including instructions to Council staff affecting members of the public are available for public inspection in an electronic format at the office of the Executive Secretary of the Council, 3501 Fairfax Drive, Room B–7081a, Arlington, VA, 22226–3550, during regular business hours. Policies and interpretations of the Council may be withheld from disclosure under the principles stated in paragraph (b)(1) of this section.

(3) Copies of all records, regardless of form or format, are available for public inspection in an electronic format if they:

(i) Have been released to any person under paragraph (b) of this section; and  
(ii)(A) Because of the nature of their subject matter, the Council determines that they have become or are likely to become the subject of subsequent requests for substantially the same records; or

(B) They have been requested three or more times.

(4) An index of the records referred to in paragraphs (a)(1) through (3) of this section is available for public inspection in an electronic format.

(b) *Other records of the Council available to the public upon request; procedures—(1) General rule and exemptions.* Under 5 U.S.C. 552(a)(3), all other records of the Council are available to the public upon request, except to the extent exempted from disclosure as provided in 5 U.S.C. 552(b) and described in this paragraph (b)(1), or if disclosure is prohibited by law. Unless specifically authorized by the Council, or as set forth in paragraph (b)(2) of this section, the following records, and portions thereof, are not available to the public:

(i) A record, or portion thereof, which is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which is, in fact, properly classified pursuant to such Executive Order.

(ii) A record, or portion thereof, relating solely to the internal personnel rules and practices of an agency.

(iii) A record, or portion thereof, specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute:

(A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(iv) A record, or portion thereof, containing trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(v) An intra-agency or interagency memorandum or letter that would not be routinely available by law to a private party in litigation, including, but not limited to, memoranda, reports, and other documents prepared by the personnel of the Council or its constituent agencies, and records of deliberations of the Council and discussions of meetings of the Council, any Council Committee, or Council staff, that are not subject to 5 U.S.C. 552b (the Government in the Sunshine Act). In applying this exemption, the Council will not withhold records based on the deliberative process privilege if the records were created 25 years or more before the date on which the records were requested.

(vi) A personnel, medical, or similar record, including a financial record, or any portion thereof, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(vii) Records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7), including records relating to a proceeding by a financial institution's State or Federal regulatory agency for the issuance of a cease-and-desist order, or order of suspension or removal, or assessment of a civil money penalty and the granting, withholding, or revocation of any approval, permission, or authority.

(viii) A record, or portion thereof, containing, relating to, or derived from an examination, operating, or condition report prepared by, or on behalf of, or for the use of any State or Federal agency directly or indirectly responsible for the regulation or supervision of financial institutions.

(ix) A record, or portion thereof, which contains or is related to geological and geophysical information and data, including maps, concerning wells.

(2) *Discretionary release of exempt information.* Notwithstanding the applicability of an exemption, the Council will only withhold records

requested under this paragraph (b) if the Council reasonably foresees that disclosure would harm an interest protected by an exemption listed in 5 U.S.C. 552(b) and described in paragraph (b)(1) of this section. In addition, whenever the Council determines that full disclosure of a requested record is not possible, the Council will consider whether partial disclosure is possible and will take reasonable steps necessary to segregate and release the nonexempt portion of a record. The Council or the Council's designee may elect, under the circumstances of a particular request, to disclose all or a portion of any requested record where permitted by law. Such disclosure has no precedential significance.

(3) *Procedure for records request—(i) Initial request.* Requests for records shall be submitted in writing to the Executive Secretary of the Council:

(A) By sending a letter to: FFIEC, Attn: Executive Secretary, 3501 Fairfax Drive, Room B-7081a, Arlington, VA, 22226-3550. Both the mailing envelope and the request should be marked "Freedom of Information Request," "FOIA Request," or the like; or

(B) By facsimile clearly marked "Freedom of Information Act Request," "FOIA Request," or the like to the Executive Secretary at (703) 562-6446; or

(C) By email to the address provided on the FFIEC's World Wide Web page, found at: <http://www.ffiec.gov>. Requests must reasonably describe the records sought.

(ii) *Contents of request.* All requests should contain the following information:

(A) The name and mailing address of the requester, an electronic mail address, if available, and the telephone number at which the requester may be reached during normal business hours;

(B) A statement as to whether the information is intended for commercial use, and whether the requester is an educational or noncommercial scientific institution, or news media representative; and

(C) A statement agreeing to pay all applicable fees, or a statement identifying any desired fee limitation, or a request for a waiver or reduction of fees that satisfies paragraph (b)(5)(ii)(H) of this section.

(iii) *Defective requests.* The Council need not accept or process a request that does not reasonably describe the records requested or that does not otherwise comply with the requirements of this section. The Executive Secretary may return a defective request specifying the deficiency. The requester may submit a

corrected request, which will be treated as an initial request.

(iv) *Expedited processing.* (A) Where a person requesting expedited access to records has demonstrated a compelling need for the records, or where the Executive Secretary has determined to expedite the response, the Executive Secretary shall process the request as soon as practicable. To show a compelling need for expedited processing, the requester shall provide a statement demonstrating that:

(1) Failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) The requester is primarily engaged in information dissemination as a main professional occupation or activity, and there is urgency to inform the public of the government activity involved in the request.

(B) The requester's statement must be certified to be true and correct to the best of the person's knowledge and belief and explain in detail the basis for requesting expedited processing.

(C) The formality of the certification required to obtain expedited treatment may be waived by the Executive Secretary as a matter of administrative discretion.

(v) *Response to initial requests.* (A) Except where the Executive Secretary has determined to expedite the processing of a request, the Executive Secretary will respond by mail or electronic mail to all properly submitted initial requests within 20 working days of receipt. The time for response may be extended up to 10 additional working days in unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B), where the Council has provided written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. In addition, where the extension of the 20-day time limit exceeds 10 working days, as described by the FOIA, the requester shall be provided with an opportunity to modify the scope of the FOIA request so that it can be processed within that time frame or provided an opportunity to arrange an alternative time frame for processing the request or a modified request. To aid the requester, the Council's FOIA Public Liaison is available to assist the requester for this purpose and in the resolution of any disputes between the requester and the Council. The Council's FOIA Public Liaison's contact information is available at <http://www.ffiec.gov/foia.htm>. The requester may also seek dispute resolution

services from the Office of Government Information Services.

(B) In response to a request that reasonably describes the records sought and otherwise satisfies the requirements of this section, a search shall be conducted of records in existence and maintained by the Council on the date of receipt of the request, and a review made of any responsive information located. The Executive Secretary shall notify the requester of:

(1) The Executive Secretary's determination of the response to the request;

(2) The reasons for the determination;

(3) The right of the requester to seek assistance from the Council's FOIA Public Liaison; and

(4) When an adverse determination is made (including a determination that the requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; the requested record is not readily reproducible in the form or format sought by the requester; a fee waiver request or other fee categorization matter is denied; and a request for expedited processing is denied), the Executive Secretary will advise the requester in writing of that determination and will further advise the requester:

(i) If the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (when other than the person signing the notification);

(iii) The exemptions relied on for the denial;

(iv) The right of the requester to appeal any adverse determination to the Chairman of the Council within 90 days following the date of issuance of the notification, as specified in paragraph (b)(3)(vi) of this section; and

(v) The right of the requester to seek dispute resolution services from the Council's FOIA Public Liaison or the Office of Government Information Services.

(vi) *Appeals of responses to initial requests.* A requester may appeal any adverse determination in writing, within 90 days of the date of issuance of the adverse determination. Appeals should refer to the date and tracking number of the original request and the date of the Council's initial ruling. Appeals should include an explanation of the basis for the appeal. Appeals shall be submitted to the Chairman of the Council:

(A) By sending a letter to: FFIEC, Attn: Executive Secretary, 3501 Fairfax Drive, Room B-7081a, Arlington, VA, 22226-3550. Both the mailing envelope and the request should be marked "Freedom of Information Act Appeal," "FOIA Appeal," or the like; or

(B) By facsimile clearly marked "Freedom of Information Act Appeal," "FOIA Appeal," or the like to the Executive Secretary at (703) 562-6446; or

(C) By email with the subject line marked "Freedom of Information Act Appeal," "FOIA Appeal," or the like to [FOIA@ffiec.gov](mailto:FOIA@ffiec.gov).

(vii) *Council response to appeals.* The Chairman of the Council, or another member designated by the Chairman, will respond to all properly submitted appeals within 20 working days of actual receipt of the appeal by the Executive Secretary. The time for response may be extended up to 10 additional working days, as provided in 5 U.S.C. 552(a)(6)(B), or for other periods by agreement between the requester and the Chairman or the Chairman's designee.

(4) *Procedure for access to records if request is granted.* (i) When a request for access to records is granted, in whole or in part, a copy of the records to be disclosed will be promptly delivered to the requester or made available for inspection in an electronic format, whichever was requested. Inspection of records, or duplication and delivery of copies of records, will be arranged so as not to interfere with their use by the Council and other users of the records.

(ii) When delivery to the requester is to be made, copies of requested records shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the Executive Secretary deems it appropriate to send the documents by another means.

(iii) The Council shall provide a copy of the record in any form or format requested if the record is readily reproducible by the Council in that form or format, but the Council need not provide more than one copy of any record to a requester.

(iv) By arrangement with the requester, the Executive Secretary may elect to send the responsive records electronically if a substantial portion of the records is in electronic format. If the information requested is subject to disclosure under the Privacy Act of 1974, 5 U.S.C. 552a, it will not be sent by electronic means unless reasonable security measures can be established.

(5) *Fees for document search, review, and duplication; waiver and reduction of fee—(i) Definitions—(A) Direct costs* means those expenditures which the

Council actually incurs in searching for, duplicating, and reviewing documents to respond to a FOIA request.

(B) *Search* means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(C) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audiovisual records, or machine readable records (e.g., magnetic tape or computer disk).

(D) *Review* means the process of examining documents located in response to a request that is for a commercial use (see paragraph (b)(5)(i)(E) of this section) to determine whether any portion of any document located is permitted to be withheld and processing such documents for disclosure.

(E) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request falls within this category, the Executive Secretary will determine the use to which a requester will put the records requested and seek additional information as the Executive Secretary deems necessary.

(F) *Educational institution* means a preschool, an elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(G) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (b)(5)(i)(E) of this section, and which is operated solely for the purposes of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(H) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this paragraph (b)(5)(i)(H), the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media

entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Council may also consider the past publication record of the requester in making such a determination.

(ii) *Fees to be charged.* The Council will charge fees that recoup the full allowable direct costs it incurs, except that the charging of search and/or duplication fees is subject to the restrictions of paragraph (b)(5)(ii)(G) of this section. The Council may contract with the private sector to locate, reproduce, and/or disseminate records. Provided, however, that the Council has ensured that the ultimate cost to the requester is no greater than it would be if the Council performed these tasks. Fees are subject to change as costs change. In no case will the Council contract out responsibilities which the FOIA provides that it alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees.

(A) *Manual searches and review.* The Council will charge fees at the following rates for manual searches for and review of records:

(1) If search/review is done by clerical staff, the hourly rate for GS-7, step 5, plus 16 percent of the rate to cover benefits;

(2) If search/review is done by professional staff, the hourly rate for GS-13, step 5, plus 16 percent of the rate to cover benefits.

(B) *Computer searches.* The Council will charge fees at the hourly rate for GS-13, step 5, plus 16 percent of the rate to cover benefits, plus the hourly cost of operating the computer for computer searches for records.

(C) *Duplication of records.* (1) The per-page fee for paper copy reproduction of a document is \$.25;



(2) The fee for records generated by computer is the hourly rate for the computer operator (at GS-7, step 5, plus 16 percent for benefits if clerical staff, and GS-13, step 5, plus 16 percent for benefits if professional staff) plus the cost of materials (computer paper, tapes, disks, labels, etc.).

(3) If any other method of duplication is used, the Council will charge the actual direct cost of duplicating the records.

(D) *Hourly rates.* If search, duplication and/or review is provided by personnel of member agencies of the Council, fees will reflect their actual hourly rates, plus 16 percent for benefits.

(E) *Fees to exceed \$25.* If the Council estimates that duplication and/or search fees are likely to exceed \$25, it will notify the requester of the estimated amount of fees, unless the requester has indicated in advance his/her willingness to pay fees as high as those anticipated. In the case of such notification by the Council, the requester will then have the opportunity to confer with the Council's FOIA Public Liaison with the object of reformulating the request to meet his/her needs at a lower cost.

(F) *Other services.* Complying with requests for special services such as certifying records as true copies or mailing records by express mail is entirely at the discretion of the Council. The Council will recover the full costs of providing such services to the extent it elects to provide them.

(G) *Restriction on assessing fees.* (1) The Council will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.

(2)(i) If the Council fails to comply with the time limits specified in the FOIA in which to respond to a request, the Council will not charge search fees, or, in the case of a requester described in paragraph (b)(5)(iii)(B) of this section, will not charge duplication fees, except as described in paragraphs (b)(5)(ii)(G)(2)(ii) through (iv) of this section.

(ii) If the Council has determined that unusual circumstances apply (as the term is defined in the FOIA) and the Council provided a timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional 10 working days.

(iii) If the Council has determined that unusual circumstances apply (as the term is defined in the FOIA) and more than 5,000 pages are necessary to respond to the request, the Council may charge search fees, or, in the case of

requesters described in paragraph (b)(5)(iii)(B) of this section, may charge duplication fees, if the following steps are taken: The Council provided timely written notice of unusual circumstances to the requester in accordance with the FOIA; and The Council discussed with the requester via written mail, email message, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the Council may charge all applicable fees incurred in the processing of the request.

(iv) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(H) *Waiving or reducing fees.* As part of the initial request for records, a requester may ask that the Council waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Council and is not primarily in the commercial interest of the requester. The initial request for records must also state the justification for a waiver or reduction of fees. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary of the Council and the requester will be notified in writing of his/her determination. A determination not to grant a request for a waiver or reduction of fees under this paragraph (b)(5)(ii)(H) may be appealed to the Chairman of the Council pursuant to the procedure set forth in paragraph (b)(3)(vi) of this section.

(iii) *Categories of requesters—(A) Commercial use requesters.* The Council will assess fees for commercial use requesters sufficient to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents.

(B) *News media, educational and noncommercial scientific institution requesters.* Requesters who are representatives of the news media, educational and noncommercial scientific institution requesters. The Council shall provide documents to requesters in these categories for the cost of reproduction alone, excluding fees for the first 100 pages.

(C) *All other requesters.* The Council shall charge requesters who do not fit into any of the categories in paragraphs (b)(5)(iii)(A) and (B) of this section fees

which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without a fee.

(D) *Description of records.* All requesters must specifically describe records sought.

(iv) *Interest on unpaid fees.* The Council may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing.

(v) *Fees for unsuccessful search and review.* The Council may assess fees for time spent searching and reviewing, even if it fails to locate the records or if records located are determined to be exempt from disclosure.

(vi) *Aggregating requests.* A requester(s) may not file multiple requests each seeking portions of a document or documents, solely in order to avoid payment of fees. If this is done, the Council may aggregate any such requests and charge accordingly. In no case will the Council aggregate multiple requests on unrelated subjects from the same requester.

(vii) *Advance payment of fees.* The Council will not require a requester to make an assurance of payment or an advance payment unless:

(A) The Council estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. The Council will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(B) A requester has previously failed to pay a fee charged in a timely fashion. The Council may require the requester to pay the full amount owed plus any applicable interest as provided in paragraph (b)(5)(iv) of this section or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Council begins to process a new request or a pending request from that requester.

(C) When the Council acts under paragraph (b)(5)(vii)(A) or (B) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.*, 20 working days from receipt of initial requests, plus permissible extensions of these time limits) will



begin only after the Council has received the fee payments described.

(6) *Records of another agency.* If a requested record originated with or incorporates the information of another State or Federal agency or department, upon receipt of a request for the record the Council will promptly inform the requester of this circumstance and immediately shall forward the request to the originating agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

Dated: June 26, 2017.  
Federal Financial Institutions Examinations Council.

**Judith E. Dupre,**  
*Executive Secretary.*

[FR Doc. 2017-13723 Filed 6-30-17; 8:45 am]

**BILLING CODE 7535-01-P; 6714-01-P; 6210-01-P; 4810-33-P; 4810-AM-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1

[Docket No. FDA-2013-N-0013]

#### Waivers From Requirements of the Sanitary Transportation of Human and Animal Food Rule; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a document that appeared in the **Federal Register** of Thursday, April 6, 2017 (82 FR 16733). That notification published three waivers from the Requirements of 21 CFR part 1, subpart O—Sanitary Transportation of Human and Animal Food (the Sanitary Transportation rule). That document was published with an error in the Background section. This correction is being made to improve the accuracy of the notification.

**DATES:** July 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Lisa Granger, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993-0002, 301-796-9115, [lisa.granger@fda.hhs.gov](mailto:lisa.granger@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of Thursday, April 6, 2017, in FR Doc. 2017-06854, on page 16734, the following correction is made:

On page 16734, in the third column, the bulleted list of waivers of the Sanitary Transportation rule was published in an incorrect format. This

document corrects that format to read as follows:

In accordance with the requirements of section 416 of the FD&C Act, by this notice we are waiving the following persons from the applicable requirements of the Sanitary Transportation rule:

1. Businesses subject to the requirements of part 1, subpart O, that hold valid permits and are inspected under the National Conference on Interstate Milk Shipments' Grade "A" Milk Safety Program, only when engaged in transportation operations involving bulk and finished Grade "A" milk and milk products.

2. Businesses subject to the requirements of part 1, subpart O, that are appropriately certified and are inspected under the requirements established by the Interstate Shellfish Sanitation Conference's NSSP, only when engaged in transportation operations involving molluscan shellfish in vehicles that are permitted by the State NSSP certification authority.

3. Businesses subject to the requirements of part 1, subpart O, that are permitted or otherwise authorized by the regulatory authority to operate a food establishment that provides food directly to consumers (*i.e.*, restaurants, retail food establishments, and nonprofit food establishments as defined in 21 CFR 1.227), only when engaged in transportation operations as:

a. Receivers, whether the food is received at the establishment itself or at a location where the authorized establishment receives and immediately transports the food to the food establishment;

b. shippers and carriers in operations in which food is transported from the establishment as part of the normal business operations of a retail establishment, such as:

i. Delivery of the food directly to the consumer(s) by the authorized establishment or a third-party delivery service; or

ii. delivery of the food to another location operated by the authorized establishment or an affiliated establishment where the food is to be sold or served directly to the consumer(s).

Dated: June 26, 2017.

**Anna K. Abram,**  
*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-13888 Filed 6-30-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 11 and 101

[Docket No. FDA-2011-F-0172]

RIN 0910-AG57

#### Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Interim final rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or we) is extending the comment period for the interim final rule that appeared in the **Federal Register** of May 4, 2017. In the interim final rule, FDA requested comments on the extension of the compliance date for our final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The interim final rule extended the compliance date from May 5, 2017, to May 7, 2018, and invited comment on several specific questions on how we might further reduce the regulatory burden or increase flexibility while continuing to achieve our regulatory objectives to provide consumers with nutrition information so that they can make informed choices for themselves and their families. We are taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

**DATES:** FDA is extending the comment period on the interim final rule published May 4, 2017 (82 FR 20825). Submit either electronic or written comments by August 2, 2017.

**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 August 2, 2017. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of August 2, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-2011-F-0172 for "Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments." 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." We will review this copy, including the claimed confidential information, in our 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:** Felicia B. Billingslea, Center for Food Safety and Applied Nutrition (HFS-820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2371.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 4, 2017, FDA published an interim final rule with a 60-day comment period to request comments on the extension of the compliance date for our final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The interim final rule extended the compliance date from May 5, 2017, to May 7, 2018, and invited comment on several specific questions on how we might further reduce the regulatory burden or increase flexibility while continuing to achieve our regulatory objectives to provide consumers with nutrition information so that they can make informed choices for themselves and their families. Comments will inform FDA's regulation

for the disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments.

We have received a request for a 60-day extension of the comment period for the interim final rule. The request conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the interim final rule.

FDA has considered the request and is extending the comment period for the interim final rule for 30 days, until August 2, 2017. We believe that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying Agency action on these important issues.

Dated: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-13889 Filed 6-30-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 73

[Docket No. FDA-2016-C-2570]

#### Listing of Color Additives Exempt From Certification; Spirulina Extract

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA or we) is amending the color additive regulations to provide for the expanded safe use of spirulina extract to seasonally color hard-boiled shell eggs at levels consistent with good manufacturing practice (GMP). This action is in response to a color additive petition (CAP) filed by McCormick & Company, Inc. (McCormick).

**DATES:** This rule is effective August 3, 2017. Submit either electronic or written objections and requests for a hearing on the final rule by August 2, 2017. See section IX for further information on the filing of objections.

**ADDRESSES:** You may submit either electronic or written objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before August 2, 2017. The <https://www.regulations.gov> electronic filing

system will accept comments until midnight Eastern Time at the end of August 2, 2017. Objections 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 objections in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection 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 objection, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection 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 objections submitted to the Dockets Management Staff, FDA will post your objection, 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-2016-C-2570 for "Listing of Color Additives Exempt From Certification; Spirulina Extract." Received objections, 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 an objection with confidential information that you do not wish to be made publicly available, submit your objections 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." We will review this copy, including the claimed confidential information, in our 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 objections 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:

Molly A. Harry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740-3835, 240-402-1075.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

In a notice published in the **Federal Register** of September 16, 2016 (81 FR 63728), we announced that we filed a color additive petition (CAP 6C0306) submitted by McCormick & Company, Inc., c/o Exponent, 1150 Connecticut Ave. NW., suite 1100, Washington, DC 20036. The petition proposed to amend the color additive regulations in § 73.530 (21 CFR 73.530) Spirulina extract to provide for the expanded safe use of spirulina extract, prepared by the filtered aqueous extraction of the dried

biomass of *Arthrospira platensis*, to seasonally color the shells of hard-boiled eggs. The color additive is intended to be sold as a powder in a packet to consumers at levels consistent with GMP.

#### II. Background

Spirulina extract is currently approved under § 73.530 for coloring confections (including candy and chewing gum), frostings, ice cream and frozen desserts, dessert coatings and toppings, beverage mixes and powders, yogurts, custards, puddings, cottage cheese, gelatin, breadcrumbs, ready-to-eat cereals (excluding extruded cereals), and coating formulations applied to dietary supplement tablets and capsules, at levels consistent with GMP. Spirulina extract also is currently approved under 21 CFR 73.1530 for coloring coating formulations applied to drug tablets and capsules, at levels consistent with GMP. Spirulina extract is exempt from certification under section 721(c) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379e(c)) because we previously determined that certification was not necessary for the protection of public health (78 FR 49117 at 49119, August 13, 2013).

The spirulina extract that is the subject of this final rule is a blue-colored powder produced by the filtered aqueous extraction of the dried biomass of *A. platensis* (also known as *Spirulina platensis*), an edible blue-green cyanobacterium. The color additive contains phycocyanins as the principal coloring components. Based on data and information provided in the petition on the identity, physical and chemical properties, manufacturing process, and composition of the color additive, we have determined that the color additive meets the specifications for spirulina extract in § 73.530 (Ref. 1).

Spirulina-derived ingredients have also been the subject of four notices submitted by firms to FDA informing us of their determinations that certain uses of these substances in food are generally recognized as safe (GRAS) (78 FR 49117 at 49118). Under section 201(s) of the FD&C Act (21 U.S.C. 321(s)), a substance that is GRAS for a particular use in food is not a food additive, and may lawfully be utilized for that use without our review and approval. There is no GRAS exemption, however, to the definition of color additive in section 201(t) of the FD&C Act). Therefore, we must approve the use of a color additive in food before it is marketed; otherwise the food containing the color additive is adulterated under section 402(c) of the FD&C Act (21 U.S.C. 342(c)). One GRAS

notice (GRN 000424) pertains to the use of a spirulina-derived substance that is similar in chemical composition to the color additive that is the subject of this final rule, but the substance that was the subject of GRN 000424 has a much higher phycocyanin content (Ref. 3). Importantly, in our response to these GRAS notifications, we indicated that if the substances that were the subject of these submissions impart color to the food, they may be subject to regulation as a color additive.

### III. Safety Evaluation

#### A. Determination of Safety

Under section 721(b)(4) of the FD&C Act, a color additive may not be listed for a particular use unless the data and information available to FDA establish that the color additive is safe for that use. Our color additive regulations at 21 CFR 70.3(i) define "safe" to mean that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive. To establish with reasonable certainty that a color additive intended for use in foods is not harmful under its intended conditions of use, we consider the projected human dietary exposure to the color additive, the additive's toxicological data, and other relevant information (such as published literature) available to us. We compare an individual's estimated exposure, or estimated daily intake (EDI), of the color additive from all food sources to an acceptable daily intake level established by toxicological data. The EDI is determined by projections based on the amount of the color additive proposed for use in particular foods or drugs and on data regarding the amount consumed from all ingested sources of the color additive. We commonly use the EDI for the 90th percentile consumer of a color additive as a measure of high chronic exposure.

#### B. Safety of Petitioned Use of the Color Additive

During our safety review of this petition (CAP 6C0306), we considered the projected human dietary exposure to spirulina extract and to phycocyanins (the principal coloring components) from the petitioned use and from currently permitted uses of spirulina extract in foods and ingested drugs. McCormick submitted an exposure estimate for spirulina extract and for phycocyanins for the petitioned use of spirulina extract based on a worst-case scenario that presumed that spirulina extract could potentially migrate from the outside of the egg shell to the edible

portion of the egg. McCormick estimated that the petitioned use of spirulina extract to seasonally color the shells of hard-boiled eggs would result in an exposure to spirulina extract of 8.8 milligrams per person per day (mg/p/d) at the 90th percentile for the U.S. population aged 2 years and older (Ref. 2). McCormick also estimated that the petitioned use of spirulina extract would result in an exposure to phycocyanins of 1.9 mg/p/d at the 90th percentile for the U.S. population aged 2 years and older (Ref. 2). Despite providing this worst-case estimate, McCormick noted that egg shells are not consumed and demonstrated that the spirulina extract applied to the outside of an egg shell generally does not migrate through the shell and the outer and inner membranes separating the shell from the edible portion of the egg. For these reasons, McCormick asserted that the amount of spirulina extract that would actually be found on the edible portion of an egg would be negligible, resulting in a 0.17 percent increase of the cumulative estimated daily intake (CEDI) for phycocyanins (Ref. 2). The previously estimated upper bound CEDI for phycocyanins from all GRAS-notified uses of spirulina extract in food is 1,140 mg/p/day or 19 milligrams per kilogram body weight per day (mg/kg bw/d) for a 60 kg individual based on uses addressed in GRN 000424 (Ref. 3). We agree that McCormick's exposure estimate is sufficiently conservative. We conclude that the exposure to spirulina extract and phycocyanins resulting from the petitioned use of spirulina extract to seasonally color the shells of hard-boiled eggs is negligible, and that the petitioned use would not result in a significant contribution to the CEDI for phycocyanins (Ref. 2).

To support the safety of the proposed use of spirulina extract to color the shells of hard-boiled eggs, McCormick referenced the safety determinations made by FDA for CAPs 2C0293 (78 FR 49117, August 13, 2013), 2C0297 (79 FR 20095, April 11, 2014), and 4C0300 (80 FR 50762, August 21, 2015). McCormick also conducted a search of the peer-reviewed scientific literature for animal and human oral consumption studies that tested spirulina, spirulina-derived ingredients, and phycocyanins that were published between January 1, 2014, and July 20, 2016. McCormick submitted to us the published animal and human studies that they identified as being relevant to their petition. We evaluated the submitted safety information and additional studies that we identified as relevant and concluded that this

information does not raise any safety concerns (Refs. 4 and 5).

In our previous evaluation of the use of spirulina extract as a color additive in foods (80 FR 50762), we did not have any concerns regarding the safety of the use of spirulina extract and its major coloring components, phycocyanins. Taking into account all the available safety information and the estimated exposure to phycocyanins from the petitioned use, we conclude that the proposed use of spirulina extract to seasonally color the shells of hard-boiled eggs is safe (Ref. 5).

We discussed the potential allergenicity of spirulina phycocyanins in our final rule for the use of spirulina extract as a color additive in candy and chewing gum (78 FR 49117 at 49119). Based on the comparison of the known amino acid sequences of phycocyanins with the sequences of known protein allergens, we determined that there is a low probability that phycocyanins are protein allergens. We therefore concluded that the spirulina phycocyanins present an insignificant allergy risk. Additionally, after a review of the literature relevant to the potential allergenicity of spirulina phycocyanins, we have determined that spirulina phycocyanins still present an insignificant allergy risk (Refs. 4–7). We are not aware of any new information that would cause us to change this conclusion.

### IV. Conclusion

Based on the data and information in the petition and other relevant material, we conclude that the petitioned use of spirulina extract to seasonally color the shells of hard-boiled eggs is safe. We further conclude that the color additive will achieve its intended technical effect and is suitable for the petitioned use. Consequently, we are amending the color additive regulations in part 73 (21 CFR part 73) as set forth in this document. In addition, based upon the factors listed in 21 CFR 71.20(b), we continue to conclude that certification of spirulina extract is not necessary for the protection of the public health.

### V. Public Disclosure

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure.

## VI. Analysis of Environmental Impact

We previously considered the environmental effects of this rule, as stated in the September 16, 2016, **Federal Register** notice of petition for CAP 6C0306 (81 FR 63728). We stated that we had determined, under 21 CFR 25.32(r), that this action “is of a type that does not individually or cumulatively have a significant effect on the human environment” such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

## VII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## VIII. Section 301(l) of the FD&C Act

Our review of this petition was limited to section 721 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, section 301(l) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(l)(1) to (l)(4) of the FD&C Act applies. In our review of this petition, we did not consider whether section 301(l) of the FD&C Act or any of its exemptions apply to food containing this color additive. Accordingly, this final rule should not be construed to be a statement that a food containing this color additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(l) of the FD&C Act. Furthermore, this language is included in all color additive final rules that pertain to food and therefore should not be construed to be a statement of the likelihood that section 301(l) of the FD&C Act applies.

## IX. Objections

This rule is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may

file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at <https://www.regulations.gov>. We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

## X. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Memorandum from N. Belai, Color Technology Team, Office of Cosmetics and Colors (OCAC), Center for Food Safety and Applied Nutrition (CFSAN), FDA to M. Harry, Division of Petition Review, Office of Food Additive Safety (OFAS), CFSAN, FDA, February 1, 2017.
2. Memorandum from H. Lee, Division of Petition Review, OFAS, CFSAN, FDA to M. Harry, Division of Petition Review, OFAS, CFSAN, FDA, February 1, 2017.
3. Letter from D. Keefe, OFAS, CFSAN, FDA to H. Newman, Desert Lake Technologies, LLC, Agency Response Letter GRAS Notice 000424, December 6, 2012, (<http://www.fda.gov/Food/IngredientsPackagingLabeling/GRAS/NoticeInventory/ucm335743.htm>).
4. Memorandum from L. Rosenfeld, Division of Petition Review, OFAS, CFSAN, FDA to J. Park, Division of Petition Review, OFAS, CFSAN, FDA, January 12, 2017.
5. Memorandum from J. Park, Division of Petition Review, OFAS, CFSAN, FDA to

- M. Harry, Division of Petition Review, OFAS, CFSAN, FDA, February 2, 2017.
6. Memorandum from J. Park, Division of Petition Review, OFAS, CFSAN, FDA to M. Harry, Division of Petition Review, OFAS, CFSAN, FDA, April 13, 2017.
7. Memorandum from J. Park, Division of Petition Review, OFAS, CFSAN, FDA to M. Harry, Division of Petition Review, OFAS, CFSAN, FDA, April 25, 2017.

## List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

- 1. The authority citation for part 73 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

- 2. Section 73.530 is amended by revising paragraph (c) to read as follows:

### § 73.530 Spirulina extract.

\* \* \* \* \*

(c) *Uses and restrictions.* Spirulina extract may be safely used for coloring confections (including candy and chewing gum), frostings, ice cream and frozen desserts, dessert coatings and toppings, beverage mixes and powders, yogurts, custards, puddings, cottage cheese, gelatin, breadcrumbs, ready-to-eat cereals (excluding extruded cereals), coating formulations applied to dietary supplement tablets and capsules, at levels consistent with good manufacturing practice, and to seasonally color the shells of hard-boiled eggs, except that it may not be used to color foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act, unless the use of the added color is authorized by such standards.

\* \* \* \* \*

Dated: June 21, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017–13867 Filed 6–30–17; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117****[Docket No. USCG–2017–0538]****Drawbridge Operation Regulation; China Basin, San Francisco, CA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the 3rd Street Drawbridge across China Basin, mile 0.0, at San Francisco, CA. The deviation is necessary to allow participants to cross the bridge, uninterrupted, during the San Francisco Marathon. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 6 a.m. to 2 p.m. on July 23, 2017.

**ADDRESSES:** The docket for this deviation [USCG–2017–0538], is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email [Carl.T.Hausner@uscg.mil](mailto:Carl.T.Hausner@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The City of San Francisco has requested a temporary change to the operation of the 3rd Street Drawbridge, mile 0.0, over China Basin, at San Francisco, CA. The drawbridge navigation span provides a vertical clearance of 3 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal if at least one hour notice is given, as required by 33 CFR 117.149. Navigation on the waterway is recreational.

The drawspan will be secured in the closed-to-navigation position from 6 a.m. to 2 p.m. on July 23, 2017, to allow participants to cross the bridge, uninterrupted, during the San Francisco Marathon. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies. There is no immediate alternate route for vessels to pass. The Coast Guard will also inform

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

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

Dated: June 27, 2017.

**C.T. Hausner,***District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2017–13923 Filed 6–30–17; 8:45 am]

**BILLING CODE 9110–04–P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117****[Docket No. USCG–2017–0325]****Drawbridge Operation Regulation; Quantuck Canal, Westhampton Beach, NY****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the West Bay Bridge across the Quantuck Canal, mile 0.1 at Westhampton Beach, New York. This action is necessary to complete rehabilitation of the bascule leaves of the drawbridge. The deviation will allow the bridge to open only one bascule span in order to provide passage for vessels requiring an opening.

**DATES:** This deviation is effective from 12:01 a.m. on October 2, 2017 to 11:59 p.m. on March 30, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2017–0325, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4334, email [james.m.moore2@uscg.mil](mailto:james.m.moore2@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Suffolk County Department of Public

Works, the owner of the bridge, requested a temporary deviation in order to facilitate reconstruction of the bascule leaves.

The West Bay Bridge across the Quantuck Canal, mile 0.1, at Westhampton Beach, New York is a double-leaf bascule bridge offering mariners a vertical clearance of 11 feet at mean high water and 13.3 feet at mean low water in the closed position. Horizontal clearance is 50 feet. Utilization of a work barge placed underneath one of the bascule leaves will reduce horizontal clearance to 25 feet. The existing drawbridge operating regulations are listed at 33 CFR 117.799(d).

This temporary deviation will allow the Beach Lane Bridge to open only one of the two bascule spans for bridge openings from 12:01 a.m. on October 2, 2017 to 11:59 p.m. on March 30, 2018. Dual lift span operations will be available, provided 48 hours of advance notice is furnished to the owner of the bridge.

The majority of vessels requiring bridge openings are sailing vessels and yachts transiting the waterway. Discussion with the proprietor of the Modern Yachts Marina located in the vicinity of the bridge confirms typical recreational traffic will continue to be able to proceed through the navigation opening of the bridge during one-leaf operations. Moreover, the bulk of recreational traffic that utilizes the waterway is largely seasonal in nature, peaking during the late spring, summer and early autumn months. Little to no recreational traffic transits the Quantuck Canal throughout the winter. Small scale tug/barge combinations occasionally transit the Quantuck Canal, but such commercial craft are generally limited in size. Mariners concur that the requirement to provide the bridge owner 48 hours of advance notice for dual lift span operations will not impede overall operations.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be able to open for emergencies and there is an alternate route for vessels unable to pass through the bridge when in the closed position.

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

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this

temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 15, 2017.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist,  
First Coast Guard District.*

[FR Doc. 2017-13854 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2017-0356]

#### Drawbridge Operation Regulation; Sloop Channel, Hempstead, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Wantagh State Parkway Bridge across Sloop Channel, mile 15.4, at Hempstead, New York. This deviation is necessary in order to facilitate an annual fireworks display and allows the bridge to remain in the closed position.

**DATES:** This deviation is effective from 9 p.m. to 11:59 p.m. on July 4, 2017.

**ADDRESSES:** The docket for this deviation, USCG-2017-0356, is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212-514-4334, email [james.m.moore2@uscg.mil](mailto:james.m.moore2@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The New York State Office of Parks, Recreation, and Historic Preservation with concurrence of the bridge owner, the New York State Department of Transportation, requested a temporary deviation from the normal operating schedule to facilitate a public fireworks event.

The Wantagh Parkway Bridge, mile 15.4, across Sloop Channel, has a vertical clearance of 20 feet at mean high water and 21.8 feet at mean low water in the closed position. The existing drawbridge operating regulation is listed at 33 CFR 117.5.

The temporary deviation will allow the Wantagh Parkway Bridge to remain closed from 9 p.m. through 11:59 p.m. on July 4, 2017. The waterway is used primarily by seasonal recreational vessels and occasional tug/barge traffic. Coordination with waterway users has indicated no objections to the proposed short-term closure of the draw.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be able to open for emergencies. There is no alternate route for vessels to pass.

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

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

Dated: June 27, 2017.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist,  
First Coast Guard District.*

[FR Doc. 2017-13915 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2017-0561]

#### Safety Zones; Cornucopia 4th of July Fireworks Display, Siskiwit Bay, Cornucopia, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone for the Cornucopia 4th of July Fireworks Display in Cornucopia, WI from 9:30 p.m. through 11:00 p.m. on July 1, 2017. This action is necessary to protect participants and spectators during the Cornucopia 4th of July Fireworks Display. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative.

**DATES:** The regulations in 33 CFR 165.943(a)(4) and (b) will be enforced from 9:30 p.m. through 11:00 p.m. on July 1, 2017, for the Cornucopia 4th of July Fireworks Display safety zone, located in § 165.943(a)(4).

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email LT John Mack, Chief of Waterways Management, Coast Guard; telephone (218) 725-3818, email [john.v.mack@uscg.mil](mailto:john.v.mack@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone for the annual Cornucopia 4th of July Fireworks Display in 33 CFR 165.943(a)(4) and (b) from 9:30 p.m. through 11:00 p.m. on July 1, 2017 on all waters of Siskiwit Bay bounded by the arc of a circle with a 420-foot radius from the fireworks launch site with its center in position 46°51'35" N., 091°06'15" W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16 or via telephone at (715) 779-5100. This document is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners. The Captain of the Port Duluth or her on-scene representative may be contacted via VHF Channel 16 or via telephone at (715) 779-5100.

Dated: June 22, 2017.

**E.E. Williams,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 2017-13563 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0558]

RIN 1625-AA00

#### Safety Zone; Garlock Wedding; Saint Lawrence River, Alexandria Bay, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Saint Lawrence River, Alexandria



Bay, NY. This safety zone is intended to restrict vessels from a portion of the Saint Lawrence River within a 350-foot radius of position 44°20' 32.8" N., 075°55' 02.71" W. (NAD 83) during the Garlock Wedding fireworks display on July 7, 2017. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo (COTP).

**DATES:** This rule is effective from 10:45 p.m. until 11:30 p.m. on July 7, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0588 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 about this rulemaking, call or email LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@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
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency finds good cause that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not provided to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both

impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the event.

**III. Legal Authority and Need for Rule**

The Coast Guard issues this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a maritime fireworks show presents significant risks to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks show is taking place.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 10:45 p.m. to 11:30 p.m. on July 7, 2017. The safety zone will encompass all waters of the Saint Lawrence River; Alexandria Bay, NY contained within a 350-foot radius of position 44°20'32.8" N., 075°55'02.71" W. (NAD 83). The duration of the zone is intended to ensure the safety of spectators and vessels during the Garlock Wedding fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

**V. Regulatory Analyses**

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

**A. Regulatory Planning and Review**

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

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs"), directs agencies to reduce regulation and control regulatory costs and provides that "for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process."

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.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled "Guidance Implementing Executive Order 13771 Titled 'Reducing Regulation and Controlling Regulatory Costs'" (April 5, 2017).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

**B. Impact on Small Entities**

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

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective, and thus subject to



enforcement for only one hour late in the evening. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

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

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

#### C. Collection of Information

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

#### D. Federalism and Indian Tribal Governments

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

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a temporary safety zone. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

#### G. Protest Activities

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

#### List of Subjects in 33 CFR Part 165

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0558 to read as follows:

### § 165.T09–0558 Safety Zone; Garlock Wedding; Saint Lawrence River, Alexandria Bay, NY.

(a) *Location.* This zone will encompass all waters of the Saint Lawrence River; Alexandria Bay, NY contained within a 350-foot radius of position 44°20'32.8"N., 075°55'02.71" W. (NAD 83).

(b) *Enforcement period.* This regulation will be enforced from 10:45 p.m. until 11:30 p.m. on July 7, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 26, 2017.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017–13856 Filed 6–30–17; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2017–0568]

RIN 1625–AA00

#### Safety Zone; Bay Village Independence Day Celebration Fireworks Display; Lake Erie, Bay Village, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of Lake Erie at Cahoon Memorial Park, Bay Village, OH. This safety zone is intended to restrict vessels from a portion of Lake Erie during the Bay Village Independence Day Celebration fireworks display. This temporary safety zone is necessary to protect personnel, vessels, and the marine environment from the potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Buffalo.

**DATES:** This rule is effective from 9:45 p.m. through 10:45 p.m. on July 4, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0568 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email [ryan.s.junod@uscg.mil](mailto:ryan.s.junod@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule

without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard’s ability to protect spectators and vessels from the hazards associated with a maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule’s objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the maritime Fireworks Display.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo, NY (COTP) has determined that potential hazards associated with vessels in the vicinity of firework displays on July 04, 2017 will be a safety concern for vessels and spectators within a 560 foot radius of the launch point of the fireworks. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display is happening.

##### IV. Discussion of the Rule

This rule establishes a safety zone from 9:45 p.m. through 10:45 p.m. on July 04, 2017. The safety zone will cover all navigable waters within 560 feet of the launch point of the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

##### 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”), directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

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.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of 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).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

### B. Impact on Small Entities

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

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour that will prohibit entry within 560 feet of the launch area for the fireworks display. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### List of Subjects in 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0568 to read as follows:

#### § 165.T09–0568 Safety Zone; Bay Village Independence Day Celebration; Lake Erie, Bay Village, OH.

(a) *Location.* This zone will encompass all U.S. waterways within a 560 foot radius of the fireworks launch site located at position 41°29′23.9″ N. and 081°55′44.5″ W., Bay Village, OH (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 04, 2017 from 9:45 p.m. until 10:45 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all

directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 27, 2017.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017-13919 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2017-0562]

#### Safety Zones; Duluth 4th Fest Fireworks Display, Duluth Harbor Basin, Duluth, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone for the Duluth 4th Fest Fireworks Display in Duluth, MN from 9:30 p.m. through 11:30 p.m. on July 4, 2017. This action is necessary to protect participants and spectators during the Duluth 4th Fest Fireworks Display. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative.

**DATES:** The regulations in 33 CFR 165.943(a)(3) and (b) will be enforced from 9:30 p.m. through 11:30 p.m. on July 4, 2017, for the Duluth 4th Fest Fireworks Display safety zone, located in § 165.943(a)(3).

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email LT John Mack, Chief of Waterways Management, Coast Guard; telephone (218) 725-3818, email [john.v.mack@uscg.mil](mailto:john.v.mack@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

The Coast Guard will enforce the safety zone for the annual Duluth 4th Fest Fireworks Display in 33 CFR 165.943(a)(3) and (b) from 9:30 p.m. through 11:30 p.m. on July 4, 2017 on all waters of the Duluth Harbor Basin bounded by the arc of a circle with a 840-foot radius from the fireworks launch site with its center in position 46°46'14" N., 092°06'16" W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative. The Captain of the Port's

designated on-scene representative may be contacted via VHF Channel 16 or telephone at (218) 529-3100.

This document is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners. The Captain of the Port Duluth or her on-scene representative may be contacted via VHF Channel 16 or telephone at (218) 529-3100.

Dated: June 22, 2017.

**E.E. Williams,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 2017-13575 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0533]

**RIN 1625-AA00**

#### Safety Zone; Lakewood Independence Day Fireworks Display; Lake Erie, Lakewood, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of Lake Erie at Lakewood Park, Lakewood, OH. This safety zone is intended to restrict vessels from a portion of Lake Erie during the Lakewood Independence Day fireworks display. This temporary safety zone is necessary to protect personnel, vessels, and the marine environment from the potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Buffalo.

**DATES:** This rule is effective from 9:45 p.m. through 10:45 p.m. on July 4, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0533 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or

email LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216-937-0124, email [ryan.s.junod@uscg.mil](mailto:ryan.s.junod@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

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

##### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the maritime fireworks display.

##### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo, NY (COTP) has determined that potential hazards associated with vessels in the vicinity of firework displays on July 04, 2017 will be a safety concern for vessels and spectators within a 420 foot radius of the launch point of the fireworks. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety

zone while the fireworks display is happening.

#### IV. Discussion of the Rule

This rule establishes a safety zone from 9:45 p.m. through 10:45 p.m. on July 4, 2017. The safety zone will cover all navigable waters within 420 feet of the launch point of the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”), directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

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.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of 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).

We conclude that this rule is not a significant regulatory action because we

anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

##### B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### C. Collection of Information

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

##### D. Federalism and Indian Tribal Governments

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

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

##### E. Unfunded Mandates Reform Act

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

##### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour that will prohibit entry within 420 feet of the launch area for the fireworks display. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

#### 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 record keeping requirements, Security measures, Waterways.

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

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0533 to read as follows:

#### § 165.T09–0533 Safety Zone; Lakewood Independence Day Fireworks Display; Lake Erie, Lakewood, OH.

(a) *Location.* This zone will encompass all U.S. waterways within a 420 foot radius of the fireworks launch site located at position 41°29'50" N., 081°47'52" W., Lakewood, OH (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 4, 2017 from 9:45 p.m. until 10:45 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be

permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 27, 2017.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017–13924 Filed 6–30–17; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2017–0476]

RIN 1625–AA00

#### Safety Zone; Canalside’s 4th of July Celebration; Buffalo Outer Harbor, Buffalo, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Buffalo Outer Harbor, Buffalo, NY. This safety zone is intended to restrict vessels from a portion of the Buffalo Outer Harbor during Canalside’s 4th of July Celebration fireworks display on July 4, 2017. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 9:45 p.m. to 10:45 p.m. on July 4, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–

0476 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 about this rulemaking, call or email LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@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  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code

#### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard’s ability to protect mariners and vessels from the hazards associated with a maritime fireworks display. Therefore, under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**.

#### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a maritime fireworks show presents significant risks to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels,

and the marine environment in the navigable waters within the safety zone while the fireworks show is taking place.

#### IV. Discussion of the Rule

This rule establishes a safety zone on July 4, 2017 from 9:45 p.m. to 10:45 p.m. The safety zone will encompass all waters of the Buffalo Outer Harbor; Buffalo, NY within a 560-foot radius of position 42°52'10.75" N., 078°52'56.01" W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs"), directs agencies to reduce regulation and control regulatory costs and provides that "for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process."

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.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of 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).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal

impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

##### B. Impact on Small Entities

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

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

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

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

small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### C. Collection of Information

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

##### D. Federalism and Indian Tribal Governments

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

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

##### E. Unfunded Mandates Reform Act

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

##### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 it is one of a category of actions that do not individually or cumulatively have a significant effect on



the human environment. This rule establishes a temporary safety zone. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

#### G. Protest Activities

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

#### List of Subjects in 33 CFR Part 165

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

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

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0476 to read as follows:

#### § 165.T09–0476 Safety Zone; Canalside’s 4th of July Celebration, Buffalo Outer Harbor, Buffalo, NY.

(a) *Location.* This zone will encompass all waters of the Buffalo Outer Harbor, Buffalo, NY within a 560-foot radius of position 42°52′10.76″ N., 078°52′56.01″ W. (NAD 83).

(b) *Enforcement period.* This regulation is effective on July 4, 2017 from 9:45 p.m. until 10:45 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any

Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 28, 2017.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017–13978 Filed 6–30–17; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2017–0331]

RIN 1625–AA00

#### Safety Zone; Thunder on the Outer Harbor; Buffalo Outer Harbor, Buffalo, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Buffalo Outer Harbor, Buffalo, NY. This safety zone is intended to restrict vessels from a portion of the Buffalo Outer Harbor during the Thunder on the Outer Harbor boat races. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with high speed boat races.

**DATES:** This rule is effective from 9:45 a.m. on July 22, 2017 until 4:15 p.m. on July 23, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0331 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Michael Collet, Chief of Waterways Management, U.S. Coast

Guard Sector Buffalo; telephone 716–843–9322, email [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

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

#### II. Background Information and Regulatory History

On May 11, 2017, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) titled Thunder on the Outer Harbor; Buffalo Outer Harbor, Buffalo, NY § 165.T09–0331. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this high speed boat race. The comment period ended June 16, 2017; we received no comments.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule’s objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the event. The event has been publicized in the local media and previously in the **Federal Register** through issuance of the NPRM; the public does not need time to make preparations for this rule to go into effect.

#### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a high speed boat races present significant risks to public safety and property. Such hazards include vessels reaching high speeds in a relatively small area and large wake. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the boat races are taking place.

#### IV. Discussion of the Rule

This rule establishes a safety zone on June 22 and June 23, 2017, from 9:45 a.m. until 4:15 p.m. daily. The safety zone will encompass all waters of the Buffalo Outer Harbor, Buffalo, NY starting at position 42°52′21″ N. and 078°53′14″ W. then West to 42°52′15″ N. and 078°53′32″ W. then South to



42°51'41" N. and 078°53'02" W. then East to 42°51'46" N. and 078°52'45" W. (NAD 83) then returning to the point of origin.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

## 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. In addition, the safety zone will have built in times to allow vessels to travel through when races are not being held. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The

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

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

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a safety zone. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated

in the **ADDRESSES** section of this preamble.

#### G. Protest Activities

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

#### List of Subjects in 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0331 to read as follows:

**§ 165.T09–0331 Safety Zone; Thunder on the Outer Harbor; Buffalo Outer Harbor, Buffalo, NY.**

(a) *Location.* This zone will encompass all waters of the Buffalo Outer Harbor, Buffalo, NY encompassed by all waters of the Outer Harbor, Buffalo, NY starting at position 42°52'21" N. and 078°53'14" W. then West to 42°52'15" N. and 078°53'32" W. then South to 42°51'41" N. and 078°53'02" W. then East to 42°51'46" N. and 078°52'45" W. (NAD 83) then returning to the point of origin.

(b) *Enforcement period.* This rule will be enforced from 9:45 a.m. until 4:15 p.m. on July 22, 2017, and July 23, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 28, 2017.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017–13977 Filed 6–30–17; 8:45 am]

**BILLING CODE 9110–04–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R01–OAR–2017–0025; FRL–9964–26–Region 1]

#### Air Plan Approval; Rhode Island; Reasonably Available Control Technology for US Watercraft, LLC

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. The revision consists of a reasonably available control technology (RACT) approval for a volatile organic compound (VOC) emission source in Rhode Island, specifically, US Watercraft, LLC. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective September 1, 2017, unless EPA receives adverse comments by August 2, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0025 at <https://www.regulations.gov>, or via email to [Mackintosh.David@epa.gov](mailto:Mackintosh.David@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

David L. Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. 617–918–1584, email [Mackintosh.David@epa.gov](mailto:Mackintosh.David@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### Table of Contents

- I. Background and Purpose
- II. Description and Evaluation of the State’s Submittal
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. Background and Purpose

Section 184(b) of the CAA requires Rhode Island to implement RACT for all major sources of VOCs and all sources covered by a Control Techniques Guideline (CTG). The Rhode Island Department of Environmental Management (RI DEM) submitted RACT Approval File No. 01–05–AP as a SIP revision for incorporation into the Rhode Island SIP. RACT Approval File No. 01–05–AP was originally issued to TPI Composites Incorporated (currently owned and operated by US Watercraft, LLC) in Warren, Rhode Island. The RACT Approval was received by EPA on August 8, 2003, and amended shortly thereafter. The amendment was received by EPA on February 20, 2004.

#### II. Description and Evaluation of the State’s Submittal

US Watercraft, LLC is located at 373 Market Street, Warren, Rhode Island,

and operates two fiberglass process areas that emit VOCs: Fiberglass production; and Research and Development (R&D). The RI DEM RACT Approval replaced the requirements in the original 1990 RACT Consent Agreement, File No. 90-1-AP, which EPA approved on August 31, 1990 (55 FR 35623). RI DEM issued the updated RACT Approval for this facility to reflect technological advances in the fiberglass manufacturing industry as well as to correct and clarify requirements contained in the consent agreement. The RACT Approval control strategy was revised to include the Seemann Composite Resin Infusion Molding Process (SCRIMP), a closed molding process, and VOC limitations on gel coats and resins used to limit VOC emissions from the operations performed at the facility. In addition, the updated Approval provides for enhanced recordkeeping to track VOC emissions from the facility. Specifically, the submitted amendment to the RACT Approval restricts US Watercraft when applying vinyl ester resin to using the closed molding process or using a roller, except that US Watercraft may apply vinyl ester resin by spray layup for corrosion proof laminate, as is the case with the consent agreement currently in the SIP. Additionally, the updated RACT Approval prohibits the use of VOC solvents for cleanup, whereas the consent agreement currently in Rhode Island's SIP allows solvents containing VOCs to be used on a limited basis for cleaning activities. Since the RACT Approval and its amendment are no less stringent than the previously-approved consent agreement, and in some instances are more stringent, the anti-back sliding requirements of section 110(l) of the CAA are met. Therefore, EPA is approving the new RACT Approval and amendment for US Watercraft, LLC.

It should be noted that subsequent to RI DEM's submittal of its SIP revision and amendment for US Watercraft in 2003 and 2004, respectively, EPA later issued a Control Techniques Guidelines (CTG) for Fiberglass Boat Manufacturing Materials on October 7, 2008 (73 FR 58481). RI DEM has not yet addressed this CTG. On February 3, 2017 (82 FR 9158), EPA issued a Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards for Rhode Island's failure to submit a SIP revision to satisfy the 2008 CTG for Fiberglass Boat Manufacturing Materials.

At this time, EPA is taking no action with regard to Rhode Island's obligation to address the 2008 CTG for Fiberglass

Boat Manufacturing Materials since Rhode Island has not yet taken formal action to address this CTG. In this action, we are approving the revised RACT Approval for US Watercraft as meeting the section 110(l) anti-back sliding requirement of the CAA and incorporating it into the SIP as SIP-strengthening. Rhode Island is still obligated to submit a formal SIP revision to EPA detailing how the state is addressing the Fiberglass Boat Manufacturing Materials CTG for any and all sources in the state covered by that CTG.

### III. Final Action

EPA is approving, and incorporating into the Rhode Island SIP, a RACT Approval effective July 16, 2003, and a RACT Approval amendment effective February 11, 2004, for US Watercraft, LLC (formerly known as TPI Composites or Tillotson-Pearson). EPA is also removing the previously approved consent agreement for this facility from the Rhode Island SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective September 1, 2017 without further notice unless the Agency receives relevant adverse comments by August 2, 2017.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 1, 2017 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the RACT Approval for US Watercraft, LLC described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov>, and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure,

or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 1, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 7, 2017.

**Deborah A. Szaro,**

*Acting Regional Administrator, EPA New England.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart OO—Rhode Island**

■ 2. In § 52.2070 in the table in paragraph (d), remove the entry “Tillotson-Pearson in Warren, Rhode Island”; and add the entry for “US Watercraft, LLC in Warren, Rhode Island” to the end of the table to read as follows:

**§ 52.2070 Identification of plan.**

\* \* \* \* \*

(d) *EPA-approved State Source specific requirements.*

**EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS**

Name of source	Permit No.	State effective date	EPA approval date	Explanations
US Watercraft, LLC in Warren, Rhode Island.	File No. 01-05-AP .....	7/16/2003 and 2/11/2004 ..	7/3/2017, [Insert <b>Federal Register</b> citation].	VOC RACT Approval and Amendment.

[FR Doc. 2017-13907 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2015-0624 & EPA-R04-OAR-2015-0623; FRL-9964-39-Region 4]

**Air Plan Approval; FL: Hillsborough and Nassau Areas; SO<sub>2</sub> Attainment Demonstration**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving two State

Implementation Plan (SIP) revisions, submitted by the State of Florida, through the Florida Department of Environmental Protection (FL DEP), to EPA on April 3, 2015, for the purpose of providing for attainment of the 2010 primary Sulfur Dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) in the Hillsborough County and Nassau County SO<sub>2</sub> nonattainment areas (hereafter referred to as the “Hillsborough Area,” “Nassau Area,” or “Areas”). The Hillsborough Area is comprised of the portion of Hillsborough County in Florida surrounding the Mosaic Fertilizer facility (hereafter referred to as “Mosaic”). The Nassau Area comprises the portion of Nassau County in Florida surrounding the Rayonier Performance

Fibers, LLC sulfite pulp mill (hereafter referred to as “Rayonier”). EPA concludes that Florida has appropriately demonstrated that attainment with the 2010 1-hour primary SO<sub>2</sub> NAAQS will occur in the Nassau and Hillsborough Areas by the applicable attainment dates, and that the plans meet the other applicable requirements under the Clean Air Act (CAA or Act). As a part of approving the attainment demonstrations, EPA is taking final action to approve into the Florida SIP the SO<sub>2</sub> emissions limits and associated compliance parameters for both Areas. **DATES:** This rule will be effective August 2, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification Nos. EPA-R04-OAR-

2015–0623 and EPA–R04–OAR–2015–0624. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Twunjala Bradley, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9352. Ms. Bradley can also be reached via electronic mail at [bradley.twunjala@epa.gov](mailto:bradley.twunjala@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 2, 2010, EPA promulgated a new 1-hour primary SO<sub>2</sub> NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. See 75 FR 35520, codified at 40 CFR 50.17(a)–(b). On August 5, 2013, EPA designated the first set of areas of the country as nonattainment for the 2010 primary SO<sub>2</sub> NAAQS, including the Hillsborough and Nassau Areas in Florida. See 78 FR 47191, codified at 40 CFR part 81, subpart C. These area designations were effective October 4, 2013, which triggered a requirement for Florida to submit a SIP revision with a plan for how the Hillsborough and Nassau Areas would attain the 2010 SO<sub>2</sub> NAAQS as expeditiously as practicable, but no later than October 4, 2018, in accordance with CAA sections 191–192.

Section 191 of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO<sub>2</sub> NAAQS to EPA within 18 months of the effective date of the designation, *i.e.*, by no later than April 4, 2015, in this case. Section 192 requires that such plans shall provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of the nonattainment designation. Section 172(c) of part D of the CAA lists the required components of a nonattainment plan submittal. The base year emissions inventory (section 172(c)(3)) is required to show a “comprehensive, accurate, current inventory” of all relevant pollutants in the nonattainment area. The nonattainment plan must identify and quantify any expected emissions from the construction of new sources to account for emissions in the area that might affect reasonable further progress (RFP) toward attainment, or that might interfere with attainment and maintenance of the NAAQS, and it must provide for a nonattainment new source review (NNSR) program (section 172(c)(5)). The attainment demonstration must include a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for reasonable further progress (RFP) and expeditious attainment of the NAAQS (section 172(c)(2), (4), (6) and (7)). The nonattainment plan must include an analysis of the reasonably available control measures (RACM) considered, including reasonably available control technology (RACT) (section 172(c)(1)). Finally, the nonattainment plan must provide for contingency measures (section 172(c)(9)) to be implemented either in the case that RFP toward attainment is not made, or in the case that the area fails to attain the NAAQS by the attainment date.

On April 23, 2014, EPA issued a guidance document entitled, “Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area SIP Submissions” (SO<sub>2</sub> Nonattainment Guidance). The SO<sub>2</sub> Nonattainment Guidance provides recommendations for the development of SO<sub>2</sub> nonattainment SIPs to satisfy CAA requirements (see, *e.g.*, section 172 and 191–192). An attainment demonstration must also meet the requirements of 40 CFR 51.112 and part 51, appendix W, and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The SO<sub>2</sub> Nonattainment Guidance also provides states with the option to utilize

emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria to ensure attainment of the SO<sub>2</sub> NAAQS.

Florida submitted attainment demonstrations for both Areas on April 3, 2015. On August 23, 2016, EPA proposed to approve Florida’s April 3, 2015, SO<sub>2</sub> attainment demonstrations, which included all the specific attainment elements mentioned above and new SO<sub>2</sub> emission limits with averaging times longer than the 1-hour form of the primary SO<sub>2</sub> NAAQS for the Mosaic-Riverview fertilizer plant and the Tampa Electric Company’s (TECO’s) Big Bend electric generating source impacting the Hillsborough Area, and for Rayonier sulfite pulp mill and WestRock CP, LLC kraft pulp mill sources impacting the Nassau Area in accordance with the SO<sub>2</sub> Nonattainment Guidance. See 81 FR 57522 and 81 FR 57535. Comments on the proposed rulemakings were due on or before September 23, 2016. EPA received three sets of comments on the proposed approval of Florida’s SO<sub>2</sub> SIP revision for the Hillsborough Area, and one set of comments on the proposed approval of Florida’s SO<sub>2</sub> SIP for the Nassau Area. The comments are available in the docket for this final rulemaking action. EPA’s summary of the comments and responses are provided below. For a comprehensive discussion of Florida’s SO<sub>2</sub> attainment SIP and EPA’s analysis and rationale for approval for both Areas, please refer to the August 23, 2016, proposed rulemakings. The remainder of this preamble summarizes EPA’s final approval of Florida’s SO<sub>2</sub> attainment demonstrations for both areas and response to comments.

**II. Response to Comments**

The three sets of comments for the proposed approval of the SIP revision for the Hillsborough Area were from the Arizona Mining Association (AMA), Florida Electric Power Coordinating Group, INC. (FCG), and Tampa Electric Company (TECO). The single set of comments for the proposed approval of the SIP revision for the Nassau Area was received from the AMA. EPA will refer to the AMA, FCG, and TECO Commenters collectively as “the Commenter(s).” Notably, the Commenters expressed support for EPA’s proposed approvals of Florida’s SO<sub>2</sub> SIP revisions for the Hillsborough and Nassau Areas. Additionally, the Commenters also provided other related comments for which EPA is taking the opportunity to respond in this final rulemaking. To review the complete sets of comments received, refer to the dockets for this rulemaking as identified

above. A summary of the comments received and EPA's responses are provided below.

*Comment 1:* The Commenter references a revised study conducted by the Indiana Department of Environmental Management (IDEM) dated January 2016 which asserts that AERMOD over-predicts at the level of the standard when compared to actual monitored data. IDEM's study compared predicted and observed SO<sub>2</sub> concentrations at the Gibson Power Plant in southwestern Indiana. The Commenter claims that the IDEM's study showed AERMOD may "grossly over-estimate site specific monitoring data." The Commenter states that the study assessed model-predicted ambient concentrations at the monitor receptor points and compared it to actual hourly monitor concentrations. The Commenter argues that the study showed that when the projected SO<sub>2</sub> concentrations were 35 ppb or higher, AERMOD over-predicted ambient impacts by more than a factor of two in nearly 84 percent of the cases based on offsite meteorological conditions and in nearly 25 percent of the cases when onsite meteorology was considered. The Commenter also asserts that AERMOD under-predicted the actual site monitored data in less than 1 percent of the cases. The Commenter concludes that the IDEM study suggests that TECO's modeled allowable limit at Big Bend station is likely over-estimated.

*Response 1:* First, EPA believes that the Commenter's objection is not germane to our proposed approval of the Florida SIP, and raises objections that are both outside the scope of our approval action and not averse to it. Second, EPA notes that the IDEM modeling study is a seriously flawed analysis and disagrees that it indicates poor model performance by AERMOD as a general matter. Most notably, the report compares modeled SO<sub>2</sub> levels expressed in µg/m<sup>3</sup> against monitored values expressed in ppb. EPA made IDEM aware of the discrepancy in concentration units in fall 2015. A more appropriate assessment of this model-monitor comparison, as discussed, for example, in an article in the Journal of the Air and Waste Management Association by Kali Frost of IDEM, published April 9, 2014, shows that AERMOD results match monitoring data relatively closely. Also, as part of the proposed revisions to *The Guideline on Air Quality Modeling* in 2015 and finalized in 2016, EPA performed an evaluation on the use of prognostic meteorological data for input into AERMOD. Part of this evaluation included the same Gibson study as in

the Frost 2014 paper and the IDEM study. As with the Frost 2014 paper, the results of the EPA evaluation indicated good model performance for AERMOD. The evaluation can be found in the EPA Technical Support Document, *Evaluation of Prognostic Meteorological Data in AERMOD Applications* (EPA-454/R-16-004). Additionally, the Commenter does not offer any specific technical evidence or documentation that the attainment modeling for the Hillsborough Area over predicts estimated site monitoring concentration nor explains how the SO<sub>2</sub> characterization of the area in the IDEM study applies to the Hillsborough Area. Furthermore, notwithstanding stated concerns about the model, the Commenter concludes that the SO<sub>2</sub> emission limits established for the TECO Big Bend Station are "appropriate to ensure attainment with SO<sub>2</sub> NAAQS and provides the operational flexibility to ensure a reliable power supply to the Tampa Bay area." EPA agrees that the modeling conducted for Florida's attainment plan submission provided results that support the emission limitations developed by the state for the particular sources at issue in this action.

*Comment 2:* The Commenters state that EPA did not explicitly clarify its legal authority to approve the Florida attainment plan SIP submissions with longer-term averaging times for emission limits for the Rayonier and WestRock sources in the Nassau Area; and Mosaic and TECO facilities in the Hillsborough Area. The Commenters suggest EPA clearly explain the legal authority under which it can approve the longer term emission limitations contained in the proposed attainment SIPs for each respective area as well as update the 2014 nonattainment guidance with additional analysis to support the "probabilistic" approach to developing such emission limits. The Commenters, nevertheless, agreed with EPA that it is appropriate to approve SO<sub>2</sub> emission limitations with a 30-day averaging period and a 24-hour averaging period for the TECO and Mosaic facilities, respectively, as part of the Hillsborough Area 1-hour SO<sub>2</sub> attainment SIP. The Commenters also agreed with EPA that it is appropriate to approve SO<sub>2</sub> emission limitations with a 3-hour averaging period for both the Rayonier and WestRock facilities as part of the Nassau Area 1-hour SO<sub>2</sub> attainment SIP. The Commenters state that EPA's approval of Florida's attainment plan with emission limitations that have longer-term averaging periods is a "reasonable and

technically justified approach that is consistent with the purposes of the CAA." The Commenters maintain that EPA's approach is "scientifically defensible and reflects EPA's sound judgment regarding how to calculate a longer-term emissions limit that is comparably stringent to the critical emission value." The Commenters believe that the longer-term limits are no more likely to cause a NAAQS exceedance than an hourly limit set at the critical emission value because both are determined by the same air modeling approach and calculated to be comparably stringent and provide for operational flexibility to ensure a reliable production of electricity.

*Response 2:* EPA appreciates the Commenter's observation regarding the appropriateness of approving attainment plans with emission limitations that apply over a longer time period than the 1-hour form of the 2010 SO<sub>2</sub> NAAQS. As mentioned above, CAA section 172(c) directs states with areas designated as nonattainment to demonstrate that the submitted attainment plan provides for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and EPA has long required that all control strategies in attainment plans reflect four fundamental principles of quantification, enforceability, replicability, and accountability. See "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule," 57 FR 13498 (April 16, 1992) (General Preamble), at 13567-68. Additional guidance is provided in the SO<sub>2</sub> Nonattainment Guidance. For SO<sub>2</sub>, there are generally two components needed to support an attainment determination submitted under section 172(c): (1) Emission limitations and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis that meets the requirements of 40 CFR part 51, appendix W which demonstrates that these emission limitations and control measures provide for timely attainment of the primary SO<sub>2</sub> NAAQS as expeditiously as practicable, but by no later than the applicable attainment date for the affected area. In all cases, the emission limitations and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limitations and control measures and must be quantifiable (*i.e.*, a specific amount of emission reduction can be ascribed to

the measures), fully enforceable (specifying clear, unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and non-subjective so that two independent entities applying the procedures would obtain the same result), and accountable (source specific limitations must be permanent and must reflect the assumptions used in the SIP demonstrations).

In the SO<sub>2</sub> Nonattainment Guidance EPA notes that past Agency guidance has recommended that averaging times in SIP emissions limitations should not exceed the averaging time of the applicable NAAQS that the limit is intended to help attain (*e.g.*, addressing emissions averaged over one or three hours), but also describes the option to utilize emission limitations with longer averaging times of up to 30 days, so long as the state meets various suggested criteria. *See* SO<sub>2</sub> Nonattainment Guidance, pp. 22 to 39. The guidance recommends that—should states elect to use longer averaging times—the longer term average limit should be set at an adjusted level that reflects a stringency comparable to the 1-hour average limit at the critical emission value shown to provide for attainment that the plan otherwise would have set.

The SO<sub>2</sub> Nonattainment Guidance provides an extensive discussion of EPA's rationale for concluding that appropriately set comparably stringent limitations based on averaging times as long as 30 days can be found to provide for attainment of the 2010 primary SO<sub>2</sub> NAAQS. In evaluating this option, EPA considered the nature of the standard, conducted detailed analyses of the impact of the use of 30-day average limits on the prospects for attaining the standard, and carefully reviewed how best to achieve an appropriate balance among the various factors that warrant consideration in judging whether a state's attainment plan provides for attainment. *Id.* at pp. 22 to 39. *See also id.* at Appendices B, C and D.

As specified in 40 CFR 50.17(b), the 1-hour primary SO<sub>2</sub> NAAQS is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations is less than or equal to 75 ppb. In a year with 365 days of valid monitoring data, the 99th percentile would be the fourth highest daily maximum 1-hour value. The 2010 SO<sub>2</sub> NAAQS, including this form of determining compliance with the standard, was upheld by the U.S. Court of Appeals for the District of Columbia

Circuit in *Nat'l Env't'l Dev. Ass'n's Clean Air Project v. EPA*, 686 F.3d 803 (D.C. Cir. 2012). Because the standard has this form, a single exceedance of the numerical limit of 75 ppb does not constitute a violation of the standard. Instead, at issue is whether a source operating in compliance with a properly set longer term average could cause exceedances, and if so the resulting frequency and magnitude of such exceedances, and in particular whether EPA can have reasonable confidence that a properly set longer term average limit will provide that the average fourth highest daily maximum value will be at or below 75 ppb. A synopsis of EPA's review of how to judge whether such plans "provide for attainment," based on modeling of projected allowable emissions and in light of the NAAQS' form for determining attainment at monitoring sites, follows.

For plans for SO<sub>2</sub> attainment based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum emission rate that would be modeled to result in attainment (*i.e.*, in an "average year"<sup>1</sup> shows three, not four days with maximum hourly levels exceeding 75 ppb) is labeled the "critical emission value." The modeling process for identifying this critical emission value inherently considers the numerous variables that affect ambient concentrations of SO<sub>2</sub>, such as meteorological data, background concentrations, and topography. In the standard approach, the state would then provide for attainment by setting a continuously applicable 1-hour emission limitation at this critical emission value.

EPA recognizes that some sources may have highly variable emissions, for example due to variations in fuel sulfur content and operating rate, that can make it extremely difficult, even with a well-designed control strategy, to ensure in practice that emissions for any given hour do not exceed the critical emission value. EPA also acknowledges the concern that longer term emission limits can allow short periods with emissions above the critical emission value, which, if coincident with meteorological conditions conducive to high SO<sub>2</sub> concentrations, could in turn create the possibility of a NAAQS

exceedance occurring on a day when an exceedance would not have occurred if emissions were continuously controlled at the level corresponding to the critical emission value. However, for several reasons, EPA believes that the approach recommended in its guidance document suitably addresses this concern. First, from a practical perspective, EPA expects the actual emission profile of a source subject to an appropriately set longer term average limit to be similar to the emission profile of a source subject to an analogous 1-hour average limit. EPA expects this similarity because it has recommended that the longer term average limit be set at a level that is comparably stringent to the otherwise applicable 1-hour limit (reflecting a downward adjustment from the critical emission value) and that takes the source's emissions profile into account. As a result, EPA expects either form of emission limit to yield comparable air quality.

Second, from a more theoretical perspective, EPA has compared the likely air quality with a source having maximum allowable emissions under an appropriately set longer term limit, as compared to the likely air quality with the source having maximum allowable emissions under the comparable 1-hour limit. In this comparison, in the 1-hour average limit scenario, the source is presumed at all times to emit at the critical emission level, and in the longer term average limit scenario, the source is presumed occasionally to emit more than the critical emission value but on average, and presumably at most times, to emit well below the critical emission value. In an "average year," compliance with the 1-hour limit is expected to result in three exceedance days (*i.e.*, three days with hourly values above 75 ppb) and a fourth day with a maximum hourly value at 75 ppb. By comparison, with the source complying with a longer term limit, it is possible that additional exceedances would occur that would not occur in the 1-hour limit scenario (if emissions exceed the critical emission value at times when meteorology is conducive to poor air quality). However, this comparison must also factor in the likelihood that exceedances that would be expected in the 1-hour limit scenario would not occur in the longer term limit scenario. This result arises because the longer term limit requires lower emissions most of the time (because the limit is set well below the critical emission value), so a source complying with an appropriately set longer term limit is likely to have lower emissions at critical times than would be the case

<sup>1</sup> An "average year" is used to mean a year with average air quality. While 40 CFR 50 appendix T provides for averaging three years of 99th percentile daily maximum values (*e.g.*, the fourth highest maximum daily concentration in a year with 365 days with valid data), this discussion and an example below uses a single "average year" in order to simplify the illustration of relevant principles.



if the source were emitting as allowed with a 1-hour limit.

As a hypothetical example to illustrate these points, suppose a source that always emits 1000 pounds of SO<sub>2</sub> per hour, which results in air quality at the level of the NAAQS (*i.e.*, results in a design value of 75 ppb). Suppose further that in an “average year,” these emissions cause the 5 highest maximum daily average 1-hour concentrations to be 100 ppb, 90 ppb, 80 ppb, 75 ppb, and 70 ppb. Then suppose that the source becomes subject to a 30-day average emission limit of 700 pounds per hour. It is theoretically possible for a source meeting this limit to have emissions that occasionally exceed 1000 pounds per hour, but with a typical emissions profile emissions would much more commonly be between 600 and 800 pounds per hour. In this simplified example, assume a zero background concentration, which allows one to assume a linear relationship between emissions and air quality. (A nonzero background concentration would make the mathematics more difficult but would give similar results.) Air quality will depend on what emissions happen on what critical hours, but suppose that emissions at the relevant times on these 5 days are 800 pounds/hour, 1100 pounds per hour, 500 pounds per hour, 900 pounds per hour, and 1200 pounds per hour, respectively. (This is a conservative example because the average of these emissions, 900 pounds per hour, is well over the 30-day average emission limit.) These emissions would result in daily maximum 1-hour concentrations of 80 ppb, 99 ppb, 40 ppb, 67.5 ppb, and 84 ppb. In this example, the fifth day would have an exceedance that would not otherwise have occurred, but the third and fourth days would not have exceedances that otherwise would have occurred. In this example, the fourth highest maximum daily concentration under the 30-day average would be 67.5 ppb.

This simplified example illustrates the findings of a more complicated statistical analysis that EPA conducted using a range of scenarios using actual plant data. As described in appendix B of the SO<sub>2</sub> Nonattainment Guidance, EPA found that the requirement for lower average emissions is highly likely to yield better air quality than is required with a comparably stringent 1-hour limit. Based on analyses described in appendix B, EPA expects that an emission profile with maximum allowable emissions under an appropriately set comparably stringent 30-day average limit is likely to have the net effect of having a *lower* number of exceedances and better air quality than

an emission profile with maximum allowable emissions under a 1-hour emission limit at the critical emission value. This result provides a compelling policy rationale for allowing the use of a longer averaging period, in appropriate circumstances where the facts indicate this result can be expected to occur.

The question then becomes whether this approach—which is likely to produce a lower number of overall exceedances even though it may produce some unexpected exceedances above the critical emission value—meets the requirement in sections 110(a) and 172(c) for state implementation plans to “provide for attainment” of the NAAQS. For SO<sub>2</sub>, as for other pollutants, it is generally impossible to design a nonattainment plan in the present that will guarantee that attainment will occur in the future. A variety of factors can cause a well-designed attainment plan to fail and unexpectedly not result in attainment, for example if meteorology occurs that is more conducive to poor air quality than was anticipated in the plan. Therefore, in determining whether a plan meets the requirement to provide for attainment, EPA’s task is commonly to judge not whether the plan provides absolute certainty that attainment will in fact occur, but rather whether the plan provides an adequate level of confidence of prospective NAAQS attainment. From this perspective, in evaluating use of a 30-day average limit, EPA must weigh the likely net effect on air quality. Such an evaluation must consider the risk that occasions with meteorology conducive to high concentrations will have elevated emissions leading to exceedances that would not otherwise have occurred, and must also weigh the likelihood that the requirement for lower emissions on average will result in days not having exceedances that would have been expected with emissions at the critical emission value. Additional policy considerations, such as in this case the desirability of accommodating real world emissions variability without significant risk of violations, are also appropriate factors for EPA to weigh in judging whether a plan provides a reasonable degree of confidence that the plan will lead to attainment. Based on these considerations, especially given the high likelihood that a continuously enforceable limit averaged over as long as 30 days, determined in accordance with EPA’s guidance, will result in attainment, EPA believes as a general matter that such limits, if appropriately determined, can reasonably be

considered to provide for attainment of the 2010 SO<sub>2</sub> NAAQS.

For these reasons, the Commenter’s statement that “the longer-term limits are no more likely to cause a NAAQS exceedance than an hourly limit set at the critical emission value” is not perfectly consistent with the EPA’s position. Presuming that the Commenter means to speak of NAAQS violations rather than single exceedances of the level of the NAAQS, the use of longer-term limits creates an arguable (albeit minimal) risk of violations that nominally does not exist with short-term limits, even though compliance with an appropriately adjusted longer-term limit is likely to yield fewer exceedances of the level of the NAAQS than compliance with a short-term limit. Thus, the Commenter’s statement misrepresents EPA’s rationale for approving the longer-term average limits in Florida’s plans as providing for attainment.

The SO<sub>2</sub> Nonattainment Guidance offers specific recommendations for determining an appropriate longer term average limit. The recommended method starts with determination of the 1-hour emission limit that would provide for attainment (*i.e.*, the critical emission value), and applies an adjustment factor to determine the (lower) level of the longer term average emission limit that would be estimated to have a stringency comparable to the otherwise necessary 1-hour emission limit. This method uses a database of continuous emission data reflecting the type of control that the source will be using to comply with the SIP emission limits, which (if compliance requires new controls) may require use of an emission database from another source. The recommended method involves using these data to compute a complete set of emission averages, computed according to the averaging time and averaging procedures of the prospective emission limitation. In this recommended method, the ratio of the 99th percentile among these long term averages to the 99th percentile of the 1-hour values represents an adjustment factor that may be multiplied by the candidate 1-hour emission limit to determine a longer term average emission limit that may be considered comparably stringent.<sup>2</sup> The guidance also addresses a variety of related topics, such as the potential utility of setting supplemental emission limits, such as mass-based limits, to reduce the

<sup>2</sup> For example, if the critical emission value is 1000 pounds of SO<sub>2</sub> per hour, and a suitable adjustment factor is determined to be 70 percent, the recommended longer term average limit would be 700 pounds per hour.



likelihood and/or magnitude of elevated emission levels that might occur under the longer term emission rate limit.

Preferred air quality models for use in regulatory applications are described in appendix A of EPA's *Guideline on Air Quality Models (40 CFR part 51, appendix W)*.<sup>3</sup> In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO<sub>2</sub> concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO<sub>2</sub> standard is provided in appendix A to the SO<sub>2</sub> Nonattainment Guidance document referenced above. Appendix A provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in this guidance is generally necessary for the attainment demonstration to offer adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 1-hour primary SO<sub>2</sub> NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.*, not just at the violating monitor) by using air quality dispersion modeling (*see* appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO<sub>2</sub> NAAQS. For a short-term (*i.e.*, 1-hour) standard, EPA believes that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases those sources located outside the nonattainment area which may affect attainment in the area) is technically appropriate, efficient and effective in demonstrating attainment in nonattainment areas because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO<sub>2</sub>.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET. Estimated concentrations should include ambient background concentrations, should follow the form

of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010, clarification memo on "Applicability of appendix W Modeling Guidance for the 1-hr SO<sub>2</sub> National Ambient Air Quality Standard" (U.S. EPA, 2010a).

The Commenters state that EPA's approval of Florida's attainment plans with emission limitations that have longer-term averaging periods is a "reasonable and technically justified approach that is consistent with the purposes of the CAA." The Commenters maintain that EPA's approach is "scientifically defensible and reflects EPA's sound judgment regarding how to calculate a longer-term emissions limit that is comparably stringent to the critical emission value."

Based on a review of the state's submittal, the EPA believes that the longer average limits established for Rayonier and WestRock in the Nassau Area and Mosaic and TECO in the Hillsborough Area provide for a suitable alternative to establishing a 1-hour average emission limit for these sources. Florida used a suitable data profile in an appropriate manner and has thereby applied an appropriate adjustment, yielding emission limits that have comparable stringency to the 1-hour average limit that the state determined would otherwise have been necessary to provide for attainment. While the longer-term averaging limits allow occasions in which emissions may be higher than the level that would be allowed with the 1-hour limit, the state's limits compensate by requiring average emissions to be lower than the level that would otherwise have been required by a 1-hour average limit. See FL DEP's April 4, 2015 attainment SIPs for both areas in the docket for this final action (EPA-R04-OAR-2015-0624 & EPA-R04-OAR-2015-0623).

*Comment 3:* The Commenter makes several statements regarding the use of emissions limitations with longer averaging periods as a means of addressing emissions from sources during startup, shutdown and malfunction (SSM) activities. The commenter states that during periods of operating variability, including startup and shutdown, there is a possibility of short periods of SO<sub>2</sub> emissions that would be greater than the critical emission value, but the commenter claims that due to their relatively short duration, infrequent occurrence, and the low probability of such periods occurring simultaneously with unfavorable meteorological conditions, these emissions would be very unlikely to cause exceedances of the NAAQS. The Commenter further asserts that

recent court decisions requiring continuous compliance with emission limitations, without exemptions for emissions during SSM events<sup>4</sup> and without affirmative defenses for excess emissions during SSM events,<sup>5</sup> do not affect EPA's authority to allow emission limitations with longer averaging periods in attainment plans. The Commenter also argues that a single, continuous emission limitation that applies to the facility at all times, but with a longer term average as in this case, provides for "more coherent compliance procedures" than other approaches such as different emission limitations or work practice standards that apply only during startup and shutdown periods. The Commenter asserts that EPA's approval of an emission limitation with a longer-term averaging period is the only practical way to implement the requirement for continuous compliance given the reality that sources vary in their operation during the course of a full year.

*Response 3:* EPA agrees with the Commenter that the Agency can approve emission limitations that are based on averaging times that are longer than the 1-hour form of the SO<sub>2</sub> NAAQS, provided that they have been demonstrated to ensure attainment and maintenance of the NAAQS and that they meet other requirements for valid SIP provisions. As explained in the SO<sub>2</sub> Nonattainment Guidance, if periods of hourly emissions above the critical emissions value are a rare occurrence at a source, and particularly if the magnitude of the emissions, in terms of the emissions rate for each hour in that period, is not substantially higher than the critical emissions value, those periods would be unlikely to have a significant impact on air quality, insofar as they would be very unlikely to occur repeatedly at the times when the meteorology is conducive to high ambient concentrations of SO<sub>2</sub>. EPA also notes that the Agency has provided the SO<sub>2</sub> Nonattainment Guidance to assist states and tribes specifically in the development of attainment plans to address specific issues and challenges relevant to the 2010 1-hour primary SO<sub>2</sub> NAAQS. In this final action, EPA is approving SIP provisions that impose emission limitations with longer term averaging periods because SO<sub>2</sub> is a pollutant having characteristics that allow this approach to ensuring attainment of the primary 1-hour standard, as discussed above. EPA continues to believe that the use of

<sup>3</sup> The most recent version of the *Guideline on Air Quality Models (40 CFR part 51)* was published in the *Federal Register*, 82 FR 5182, on January 17, 2017 with an effective date of May 22, 2017.

<sup>4</sup> *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008).

<sup>5</sup> *NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014).

longer term averages will not be necessary for sources whose emissions exhibit a low degree of variability and also notes that the approach is not necessarily transferable to other sources, pollutants, or NAAQS with different forms. EPA also notes that the appropriate duration of an averaging period in a SIP provision must take into consideration factors such as the nature of the regulated sources, the purpose of the emission limitation in the SIP provision, and the adequacy of the recordkeeping, reporting, and monitoring requirements necessary to make the emission limitation practically and legally enforceable. For example, a longer averaging period may require continuous emissions monitoring (CEMs) in order to provide adequate monitoring of emissions, as is the case in the SO<sub>2</sub> emission limitations at issue in this action.

However, the issue of whether the use of a longer term average limit is the only way under which sources could meet the 1-hour NAAQS and account for variability during startup and shutdown periods is not raised by Florida's SIP submittals, and EPA need not reach a conclusion on that issue here in approving Florida's SIP submittals.

### III. What action is EPA taking?

Pursuant to CAA sections 110, 172, 191 and 192, EPA is taking final action to approve Florida's attainment plan SIP revisions for the Hillsborough and Nassau Areas, as submitted through FL DEP to EPA on April 3, 2015, for the purpose of demonstrating attainment of the 2010 1-hour SO<sub>2</sub> NAAQS. Specifically, EPA is approving SO<sub>2</sub> emission limitations and compliance parameters established by the state applicable to the Mosaic Fertilizer, LLC Riverview plant and TECO's Big Bend electric generating facility for the Hillsborough Area; and the Rayonier sulfite pulp mill and WestRock CP, LLC kraft pulp mill for the Nassau Area. The state determined that controls for SO<sub>2</sub> emissions at Rayonier (*i.e.* increasing the stack height from the existing level of 110 feet to at least 165 feet for vent gas scrubber EU 005) are appropriate in the Nassau Area for purposes of attaining the 2010 SO<sub>2</sub> NAAQS and asserted that these controls represent RACM/RACT. Florida also proposed a supplemental control strategy for the WestRock facility including physical and operational changes to the four largest SO<sub>2</sub> emitting units at the facility.<sup>6</sup> For sources in the

Hillsborough NAA, the state required by permit physical and operational changes to the three sulfuric acid plants (SAP) at the Mosaic facility including increased stack heights and upgrades to the SAP catalyst to meet the SO<sub>2</sub> emission limit caps. Additionally, Mosaic is required to eliminate fuel oil use by January 1, 2018 except for periods of natural gas curtailment or disruption. For TECO, FL DEP required by permit that the facility undergo an operational change to increase the SO<sub>2</sub> removal efficiencies of the existing flue gas desulfurization systems for its four fossil fuel-fired steam generators to meet the collective enforceable emission limit.

In accordance with section 172(c) of the CAA, the Florida attainment plan for both the Hillsborough and Nassau Areas includes: An emissions inventory for SO<sub>2</sub> for the plan's base year (2011) and a 2018 projected emissions inventory; and an attainment demonstration. The attainment demonstration for each Area includes: Technical analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 1-hour SO<sub>2</sub> NAAQS; a declaration that FL DEP is unaware of any future growth in the area that would be subject to CAA 173, and the assertion that the NNSR program approved in the SIP at Section 62–252.500, Florida Administrative Code (F.A.C.) would account for any such growth; a modeling analysis utilizing an emissions control strategy for Mosaic and TECO in the Hillsborough Area, and Rayonier and WestRock in Nassau Area, that shows attainment of the 1-hour SO<sub>2</sub> NAAQS by the October 4, 2018, attainment date; a determination that the control strategies for the primary SO<sub>2</sub> sources within the nonattainment area constitute RACM/RACT; adherence to a construction schedule to ensure emissions reductions are achieved as expeditiously as practicable; a request from FL DEP that emissions reduction measures including system upgrades and/or emissions limitations with schedules for implementation and compliance parameters be incorporated into the SIP; and contingency measures in the event the two Areas fail to make reasonable further progress or do not attain the SO<sub>2</sub> NAAQS by the attainment date.<sup>7</sup> Lastly, FL DEP

meeting by the application of control technology that is reasonably available considering technological and economic feasibility.”

<sup>7</sup> General Conformity pursuant to CAA section 176(c) requires that actions by federal agencies do not cause new air quality issues or delay or interfere with attainment of a NAAQS. With respect to both nonattainment areas, federal agencies must work with the state to ensure that federal actions conform to the air quality plans established in the applicable SIP that ensures attainment of the SO<sub>2</sub> NAAQS.

established new SO<sub>2</sub> emission limits for the SO<sub>2</sub> sources impacting the Hillsborough Area (*i.e.*, Mosaic and TECO), and Nassau Area (*i.e.*, Rayonier and WestRock), in accordance with EPA's SO<sub>2</sub> Nonattainment Guidance. For the Nassau Area, FL DEP established new SO<sub>2</sub> emission limitations for all three primary controlled units (EU 005, 006 and 022) based on a 3-hour rolling average. Pursuant to the conditions of the construction permit (No. 0890004–036–AC), Rayonier will increase the stack height from the existing level of 110 ft to at least 165 ft for vent gas scrubber EU 005 and comply with specific SO<sub>2</sub> emission limits based on a 3-hour rolling average as determined by CEMS data. SO<sub>2</sub> emissions and ambient impacts from the facility by Rayonier's allowable SO<sub>2</sub> emissions (total from sum of all three controlled units) will be reduced from 836.5 lb/hr to 502.3 lb/hr, representing a 40 percent decrease. The Rayonier emission limitations for all three controlled units were established in a federally-enforceable air construction permit (No. 0890004–036–AC) and incorporated into the title V operating permit (No. 0890004–042–AV). These source specific requirements are also being incorporated into the SIP with this final action.

Based on the conditions of the construction permit (No. 0890003–046–AC), WestRock will reduce SO<sub>2</sub> emissions and ambient impacts from the facility by upgrading the combustion air system for recovery boilers, adding a white liquor scrubber system, and construction of a non-condensable gas pipeline to the No. 7 Power Boiler. WestRock's allowable SO<sub>2</sub> emissions from EU 006, the power boiler No. 5, will be reduced from 550 lb/hr to 15 lb/hr representing a 97 percent decrease. These source specific requirements were included in a federally-enforceable permit and are being incorporated into the SIP through this final action. Compliance with the new emission limitations for both sources will be demonstrated by certified CEMs data.

Pursuant to the conditions of the construction permit No. 0570008–080–AC, Mosaic will reduce SO<sub>2</sub> emissions and ambient impacts from the facility by eliminating the use of fuel oil at the plant except during periods of natural gas curtailment or disruption, changing the catalysts in the converters in sulfuric acid plants Nos. 7, 8, and 9 (which will lower SO<sub>2</sub> emissions while not increasing sulfuric acid mist emissions; existing permitted production capacities of the sulfuric acid plants will remain unchanged); increase the stack height of each sulfuric

<sup>6</sup> FLDEP does not assert that control strategy for WestRock constitute “the lowest emission limitation that a particular source is capable of

acid plant to no lower than 65 meters (213.25 feet), which is equivalent to approximately a 60-foot increase per stack and comply with specific SO<sub>2</sub> emissions caps based on a 24-hour average as determined by CEMs data. Mosaic's new SO<sub>2</sub> emission limitations will reduce the allowable SO<sub>2</sub> emissions from all three sulfuric acid plants collectively from 1140 lb/hr to a maximum of 575 lb/hr as a block 24-hour average. These emission limits cover various operating scenarios, including individual unit emissions limits, which remain unchanged from the current permit, along with two-unit and three-unit total limits. These new emission limitations were included in the federally-enforceable construction permit No. 0570008-080-AC and will be incorporated into the title V permit upon renewal. These requirements are also being incorporated into the SIP in this final action.

Pursuant to the conditions of the construction permit No. 0570039-074-AC, TECO will reduce SO<sub>2</sub> emissions and ambient impacts from the facility by replacing existing fuel igniters and associated equipment to allow specified units to burn natural gas instead of fuel oil during startup, shutdown, and flame stabilization and comply with an SO<sub>2</sub> emissions cap of 3,162 lbs/hour based on a 30-day rolling average for all fossil-fuel-fired electrical generating units (Units 1-4 combined). TECO's new combined allowable SO<sub>2</sub> emissions from TECO EUs 001-004 will be reduced from 6587.6 lb/hr (based on total individual unit emission limits) to 3,162 lb/hr, representing a 52 percent decrease. TECO's new SO<sub>2</sub> emission limit became effective June 1, 2016, as required in the federally-enforceable air construction permit (No. 0570039-074-AC), and is also being incorporated into the SIP in this final action. Compliance with the new emission limitations for both sources will be demonstrated by certified CEMs data.

EPA has determined that the attainment plans for SO<sub>2</sub> for the Nassau and Hillsborough Areas meet the applicable requirements of sections 110, 172 and 191-192 of the CAA. Thus, EPA is taking final action to approve Florida's attainment plans for both Areas including the specific SO<sub>2</sub> emission limits and compliance parameters established for the two SO<sub>2</sub> point sources impacting the Nassau Area (Rayonier and WestRock) and the two sources affecting the Hillsborough Area (Mosaic and TECO). EPA's analysis of both attainment SIPs are discussed in detail in EPA's August 23, 2016, proposed rulemakings. See 81 FR 57522 and 81 FR 57535.

EPA finds that appropriately set longer term average limits provide a reasonable basis by which nonattainment plans may provide for attainment. Based on its review of this general information as well as the particular information in Florida's April 3, 2015, attainment SIP, the EPA believes, that the 24-hour and 30-day average limits for Mosaic and TECO respectively for the Hillsborough Area and the 3-hour average limit for WestRock and Rayonier in the Nassau Area provide for attainment of the 1-hour SO<sub>2</sub> standard.

#### IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into Florida's SIP the specified, new operating parameters, SO<sub>2</sub> emission caps, compliance monitoring, recordkeeping and reporting requirements for emission units EU004, EU005 and EU006 at Mosaic (Permit No. 0570008-080-AC), EU001, EU002, EU003, EU004 at TECO (Permit No. 0570039-074-AC), EU005, EU006 and EU002 at Rayonier (Permit No. 0890004-036-AC) and EU006, EU015, EU007 and EU011 at WestRock (Permit No. 0890003-046-AC). The SO<sub>2</sub> emission standards specified in each permit are the basis for the SO<sub>2</sub> attainment demonstration in the SIP.

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>8</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Final Action

EPA is taking final action to approve Florida's SO<sub>2</sub> attainment plans for the Hillsborough and Nassau Areas. EPA has determined that both attainment SIPs meet the applicable requirements of the CAA. Specifically, EPA is approving Florida's April 3, 2015, SIP submissions, which include the base

year emissions inventory, a modeling demonstration of SO<sub>2</sub> attainment, an analysis of RACM/RACT, a RFP plan, and contingency measures for both nonattainment Areas. Additionally, EPA is approving into the Florida SIP specific SO<sub>2</sub> emission limits with longer-term averaging times and operating and compliance parameters established for the two sets of SO<sub>2</sub> point sources impacting the Nassau and Hillsborough Areas. EPA has concluded that Florida has appropriately demonstrated that attainment with the 2010 1-hour primary SO<sub>2</sub> NAAQS will occur in the Hillsborough and Nassau Areas by the applicable attainment dates, and that the plans meet the applicable requirements under sections 110, 172, and 191-192 of the CAA.

#### VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

<sup>8</sup> 62 FR 27968 (May 22, 1997).

- 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 1, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: June 16, 2017.  
**V. Anne Heard,**  
*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart K—Florida**

■ 2. Section 52.520 is amended by:

■ a. In paragraph (d), adding four new entries for “Mosaic Fertilizer, LLC,” “Rayonier Performance Fibers, LLC,” “Tampa Electric Company—Big Bend Station,” and “WestRock, LLC” at the end of the table.

■ b. In paragraph (e), adding two new entries for “2010 1-hour SO<sub>2</sub> Attainment Demonstration for the Hillsborough Area” and “2010 1-hour SO<sub>2</sub> Attainment Demonstration for the Nassau Area” at the end of the table.

The additions read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*  
 (d) \* \* \*

**EPA APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit No.	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Mosaic Fertilizer, LLC .....	Air Permit No. 0570008–080–AC.	1/15/2015	7/3/2017 [Insert citation of publication].	Specific Conditions pertaining to: EU004; EU005; and EU006.
Rayonier Performance Fibers, LLC.	Air Permit No. 0890004–036–AC.	4/12/2012	7/3/2017 [Insert citation of publication].	Specific Conditions pertaining to: EU005; EU006; and EU022.
Tampa Electric Company—Big Bend Station.	Air Permit No. 0570039–074–AC.	2/26/2015	7/3/2017 [Insert citation of publication].	Specific Conditions pertaining to: EU001; EU002; EU003 and EU004.
WestRock, LLC .....	Air Permit No. 0890003–046–AC.	1/9/2015	7/3/2017 [Insert citation of publication].	Specific Conditions pertaining to: EU006; EU015; EU007 and EU011.

(e) \* \* \*

**EPA APPROVED FLORIDA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2010 1-hour SO <sub>2</sub> Attainment Demonstration for the Hillsborough Area.	4/3/2015 .....	7/3/2017	[Insert citation of publication]	

EPA APPROVED FLORIDA NON-REGULATORY PROVISIONS—Continued

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
2010 1-hour SO <sub>2</sub> Attainment Demonstration for the Nassau Area.	4/3/2015 .....	7/3/2017	[Insert citation of publication]	

[FR Doc. 2017-13892 Filed 6-30-17; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R02-OAR-2016-0060; FRL-9955-06-Region 2]

**Approval and Promulgation of Implementation Plans; New Jersey; Revised Format for Materials Being Incorporated by Reference**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising the format for materials submitted by New Jersey that have been incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations and other materials affected by this format change have all been previously submitted by New Jersey and approved by EPA as SIP revisions.

This format revision will primarily affect the “Identification of plan” section as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), and the EPA Region 2 Office. EPA is also adding a table in the “Identification of plan” section, which summarizes the approval actions that EPA has taken on the regulatory and non-regulatory portions of the New Jersey SIP.

**DATES:** This rule is effective on July 3, 2017.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866; or the National Archives and Records Administration. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information for Region 2 SIP materials. For information

on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Raymond K. Forde, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3716.

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**I. Background**

*A. Description of a SIP*

In accordance with Section 110 of the Clean Air Act (Act), 42 U.S.C. 7410, each state has a SIP containing the control measures and strategies to attain and maintain the National Ambient Air Quality Standards (NAAQS) established pursuant to Section 109 of the Act, 42 U.S.C. 7409. SIPs contain numerous elements such as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

*B. How EPA Enforces SIPs*

Before formally adopting rules that contain required control measures and strategies as part of a SIP, each state must provide the public with an opportunity to comment on them. The states then submit these rules to EPA as requested SIP revisions, on which EPA must formally act.

If and when these control measures and strategies are approved by EPA after notice and comment rulemaking, they

become enforceable by EPA, and are incorporated into the federally approved SIP and identified in title 40 of the Code of Federal Regulations, part 52 (Approval and Promulgation of Implementation Plans) (40 CFR part 52). The actual state regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are “incorporated by reference,” which has the same effect as including the entire state regulation in part 52. Incorporation by reference indicates that EPA has approved a given state regulation with a specific effective date, and that EPA, in addition to the state, may enforce that regulation once it takes effect and is formally a part of the SIP. This format allows both EPA and the public to know which state measures are contained in a given SIP and are therefore federally enforceable. It also helps identify the specific requirements that the state is implementing to attain and maintain the NAAQS.

*C. How the State and EPA Update the SIP*

The SIP is periodically revised as necessary to address the specific or unique air pollution problems in the state. Therefore, EPA from time to time takes action on state SIP submissions containing new and/or revised regulations and other materials; if approved, they become part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR).

As a result, EPA began the process of developing the following: (1) A revised SIP document for each state that would be incorporated by reference under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the “Identification of plan” sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document.

#### D. How EPA Compiles the SIP

The federally approved regulations, source-specific requirements, and nonregulatory provisions (entirely or portions of) submitted by each state agency and approved by EPA have been organized into a "SIP compilation." The compilation is contained in three-ring binders and will be updated, primarily on an annual basis. The New Jersey SIP compilation is available at the Environmental Protection Agency, Region 2 Office: 290 Broadway, New York, New York 10007; (212) 637-4249.

#### E. How EPA Organizes the SIP Compilation

Each SIP compilation contains three parts approved by EPA: Part one contains regulations, part two contains source-specific requirements, and part three contains nonregulatory provisions. Each state's SIP compilation contains a table of identifying information for each of these three parts. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for New Jersey. The effective dates in the tables indicate the date of the most recent state revision of each regulation. The EPA Region 2 Office has the primary responsibility for updating the compilation and ensuring its accuracy.

#### F. Where You Can Find a Copy of the SIP Compilation

EPA's Region 2 Office developed and will maintain the compilation for New Jersey. A copy of the full text of New Jersey's regulatory and source-specific compilations will also be maintained at NARA.

#### G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the "Identification of plan" section and included additional information to clarify which provisions are the enforceable elements of the SIP. The revised Identification of plan section contains five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA-approved regulations, (d) EPA-approved source-specific requirements, and (e) EPA-approved nonregulatory provisions such as transportation control measures, statutes, control strategies, and monitoring networks.

#### H. When a State SIP Revision Becomes Part of the SIP and Federally Enforceable

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraph (c), (d), or (e) of the

applicable Identification of plan section found in each subpart of 40 CFR part 52.

#### I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP compilation, EPA has retained the original Identification of plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new table format and will decide whether or not to retain the historical Identification of plan appendices for some further period.

#### II. What is EPA doing in this action?

This rule constitutes a reformatting exercise to ensure that all revisions to the state programs and accompanying SIP that have already occurred are accurately reflected in 40 CFR part 52. State SIP revisions are subject to the EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish its proposed rulemaking in the **Federal Register** and provide for public comment before approval.

EPA has determined that this rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA. This rule simply reorganizes and codifies provisions that are already in effect as a matter of law in Federal and approved state programs. Accordingly, we find that public comment is "unnecessary" and "contrary to the public interest" under section 553 of the APA, since the reorganization and codification of the revised format for denoting IBR of the state materials into the SIP only reflects existing law and since immediate notice in the CFR benefits the public by removing outdated citations from the CFR.

#### III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the New Jersey regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will

continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov), NARA, and the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). For information on the availability of this material at NARA, go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

#### IV. Statutory and Executive Order Reviews

Under the Clean Air Act (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" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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).

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).

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

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the New Jersey SIP compilations previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this “Identification of

plan” reorganization update action for the State of New Jersey.

**List of Subjects in 40 CFR Part 52**

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

Dated: June 2, 2017.

**Catherine R. McCabe,**

*Acting Regional Administrator, Region 2.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart FF—New Jersey**

**§ 52.1570 [Redesignated as § 52.1587]**

■ 2. Redesignate § 52.1570 as § 52.1587, and in newly redesignated § 52.1587, revise the section heading and paragraph (a) to read as follows:

**§ 52.1587 Original identification of plan section.**

(a) This section identifies the original “Air Implementation Plan for the State of New Jersey” and all revisions submitted by New Jersey that were Federally approved prior to October 1, 2016.

\* \* \* \* \*

■ 3. A new § 52.1570 is added to read as follows:

**§ 52.1570 Identification of plan.**

(a) *Purpose and scope.* This section sets forth the applicable State

Implementation Plan (SIP) for New Jersey under section 110 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, and 40 CFR part 51 to meet National Ambient Air Quality Standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to October 1, 2016, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after October 1, 2016 have been approved by EPA for inclusion in the State implementation plan and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region 2 certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the state implementation plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference into the state implementation plan may be inspected at the Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007. To obtain the material, please call the Regional Office. You may also inspect the material with an EPA approval date prior to October 1, 2016 at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) *EPA approved regulations.*

**EPA-APPROVED NEW JERSEY STATE REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Comments
Title 7, Chapter 26, Subchapter 2A.	Additional, Specific Disposal Regulations for Sanitary Landfills.	June 1, 1987 .....	June 29, 1990, 55 FR 26687.	
Title 7, Chapter 27, Subchapter 1.	General Provisions ....	May 1, 1956 .....	May 31, 1972, 37 FR 10880.	
Title 7, Chapter 27, Subchapter 2.	Control and Prohibition of Open Burning.	June 8, 1981 .....	September 30, 1981, 46 FR 47779.	
Title 7, Chapter 27, Subchapter 3.	Control and Prohibition of Smoke from Combustion of Fuel.	October 12, 1977 .....	January 27, 1984, 49 FR 3463.	

## EPA-APPROVED NEW JERSEY STATE REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Title 7, Chapter 27, Subchapter 4.	Control and Prohibition of Particles from Combustion of Fuel.	April 20, 2009 .....	August 3, 2010, 75 FR 45483.	
Title 7, Chapter 27, Subchapter 5.	Prohibition of Air Pollution.	October 12, 1977 .....	January 27, 1984, 49 FR 3463.	
Title 7, Chapter 27, Subchapter 6.	Control and Prohibition of Particles from Manufacturing Processes (except section 6.5).	May 23, 1977 .....	January 26, 1979, 44 FR 5425.	Section 6.5, "Variances," is not approved (40 CFR 52. 52.1587(c)(20) and 52.1604(a)). Any State-issued variances must be formally incorporated as SIP revisions if EPA is to be bound to their provisions (40 CFR 52.1604(a)).
Title 7, Chapter 27, Subchapter 7.	Sulfur .....	March 1, 1967 .....	May 31, 1972, 37 FR 10880.	
Title 7, Chapter 27, Subchapter 8.	Permits and Certificates, Hearings, and Confidentiality.	April 5, 1985 .....	November 25, 1986, 51 FR 42565.	
Title 7, Chapter 27, Section 8.11.	Permits and Certificates, Hearings, and Confidentiality.	March 2, 1992 .....	April 15, 1994, 59 FR 17933.	
Title 7, Chapter 27, Sections 8.1 and 8.2.	Permits and Certificates, Hearings, and Confidentiality.	June 20, 1994 .....	August 7, 1997, 62 FR 42412.	
Title 7, Chapter 27, Subchapter 9.	Sulfur in Fuels .....	September 20, 2010 ..	January 3, 2012, 77 FR 19.	Sulfur dioxide "bubble" permits issued by the State pursuant to Section 9.2 and not waived under the provisions of Section 9.4 become applicable parts of the SIP only after receiving EPA approval as a SIP revision.
Title 7, Chapter 27, Subchapter 10.	Sulfur in Solid Fuels ..	April 20, 2009 .....	August 3, 2010, 75 FR 45483.	Notification of "large zone 3 coal conversions" must be provided to EPA (40 CFR 52.1601(b)).
Title 7, Chapter 27, Subchapter 11.	Incinerators .....	August 15, 1968 .....	May 31, 1972, 37 FR 10880.	
Title 7, Chapter 27, Subchapter 12.	Prevention and Control of Air Pollution Emergencies.	March 27, 1972 .....	May 31, 1972, 37 FR 10880.	
Title 7, Chapter 27, Subchapter 13.	Ambient Air Quality Standards.	June 25, 1985 .....	November 25, 1986, 51 FR 42565.	
Title 7, Chapter 27, Subchapter 14, Sections 14.2(old).	Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles.	July 1, 1985 .....	June 13, 1986, 51 FR 21549.	On September 15, 1997, Section 14.2 was re-numbered to 14.6. The State did not submit this change as a SIP revision. Therefore, the July 1, 1985, version of Section 14.2 will continue to be the EPA-approved regulation.
Title 7, Chapter 27, Subchapter 14, Section 14.1.	Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles.	July 2, 2007 .....	April 17, 2009, 74 FR 17781.	
Title 7, Chapter 27, Subchapter 14, Section 14.2.	Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles.	September 15, 1997	April 17, 2009, EPA approval finalized at 74 FR 17781.	
Title 7, Chapter 27, Subchapter 14, Section 14.3.	Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles.	July 2, 2007 .....	April 17, 2009, EPA approval finalized at 74 FR 17781.	
Title 7, Chapter 27, Subchapter 15.	Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles.	November 16, 2009 ...	March 15, 2012, 77 FR 15263.	
Title 7, Chapter 27, Subchapter 16.	Control and Prohibition of Air Pollution by Volatile Organic Compounds.	April 20, 2009 .....	August 3, 2010, 75 FR 45483.	
Title 7, Chapter 27, Subchapter 17.	Control and Prohibition of Air Pollution by Toxic Substances.	June 20, 1994 .....	August 7, 1997, 62 FR 42412.	Subchapter 17 is included in the SIP only as it relates to the control of perchloroethylene.



## EPA-APPROVED NEW JERSEY STATE REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Title 7, Chapter 27, Subchapter 18.	Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules).	March 15, 1993 .....	July 25, 1996, 61 FR 38591.	See July 25, 1996, for items not included in this limited approval.
Title 7, Chapter 27, Subchapter 19.	Control and Prohibition of Air Pollution from Oxides of Nitrogen.	April 20, 2009, as corrected on June 15, 2009 and July 6, 2009.	August 3, 2010, 75 FR 45483.	Subchapter 19 is approved into the SIP except for the following provisions: (1) Phased compliance plan through repowering in Section 19.21 that allows for implementation beyond May 1, 1999; and (2) phased compliance plan through the use of innovative control technology in Section 19.23 that allows for implementation beyond May 1, 1999.
Title 7, Chapter 27, Subchapter 21.	Emission Statements	April 20, 2009 .....	August 3, 2010, 75 FR 45483.	Section 7:27–21.3(b)(1) and 7:27–21.3(b)(2) of New Jersey's Emission Statement rule requires facilities to report on the following pollutants to assist the State in air quality planning needs: Hydrochloric acid, hydrazine, methylene chloride, tetrachloroethylene, 1, 1, 1 trichloroethane, carbon dioxide and methane. EPA will not take SIP-related enforcement action on these pollutants.
Title 7, Chapter 27, Subchapter 23.	Prevention of Air Pollution from Architectural Coatings.	December 29, 2008 ..	December 22, 2010, 75 FR 80340.	
Title 7, Chapter 27, Subchapter 24.	Prevention of Air Pollution from Consumer Products.	December 29, 2008 ..	December 22, 2010, 75 FR 80340.	
Title 7, Chapter 27, Subchapter 25.	Control and Prohibition of Air Pollution by Vehicular Fuels.	December 29, 2008 ..	December 22, 2010, 75 FR 80340.	
Title 7, Chapter 27, Subchapter 26.	Prevention of Air Pollution from Adhesives, Sealants, Adhesive Primers and Sealant Primers.	December 29, 2008 ..	December 22, 2010, 75 FR 80340.	
Title 7, Chapter 27, Subchapter 29.	Low Emission Vehicle (LEV) Program.	January 17, 2006 .....	February 13, 2008, 73 FR 8200.	In Section 29.13(g), Title 13, Chapter 1, Article 2, Section 1961.1 of the California Code of Regulations relating to greenhouse gas emission standards, is not incorporated into the SIP.
Title 7, Chapter 27, Subchapter 30.	Clean Air Interstate Rule (CAIR) NO <sub>x</sub> Trading Program.	July 16, 2007 .....	October 1, 2007, 72 FR 55672.	
Title 7, Chapter 27, Subchapter 31.	NO <sub>x</sub> Budget Program	July 16, 2007 .....	October 1, 2007, 72 FR 55672.	
Title 7, Chapter 27, Subchapter 34.	TBAC Emissions Reporting.	December 29, 2008 ..	December 22, 2010, 75 FR 80340.	
Title 7, Chapter 27B, Subchapter 3.	Air Test Method 3: Sampling and Analytic Procedures for the Determination of Volatile Organic Compounds from Source Operations.	June 20, 1994 .....	August 7, 1997, 62 FR 42412.	
Title 7, Chapter 27B, Subchapter 5.	Air Test Method 5: Testing Procedures for Gasoline-Fueled Vehicles.	November 16, 2009 ..	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 7, Sections: 7.1, 7.2, 7.3, 7.4, 7.5, 7.6.	Vehicle Inspection .....	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 24, Section 20.	Motorcycles .....	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	

## EPA-APPROVED NEW JERSEY STATE REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Title 13, Chapter 20, Subchapter 26, Sections 26.2 and 26.16.	Compliance with Diesel Emission Standards and Equipment, Periodic Inspection Program for Diesel Emissions, and Self-Inspection of Certain Classes of Motor Vehicles.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 28, Sections 28.3, 28.4 and 28.6.	Inspection of New Motor Vehicles.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 29, Sections 29.1, 29.2 and 29.3.	Mobile Inspection Unit	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 32.	Inspection Standards and Test Procedures to be Used by Official Inspection Facilities.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 33.	Inspection Standards and Test Procedures to be Used by Licensed Private Inspection Facilities.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 43.	Enhanced Motor Vehicle Inspection and Maintenance Program.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 44.	Private Inspection Facility Licensing.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 20, Subchapter 45.	Motor Vehicle Emission Repair Facility Registration.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 13, Chapter 21, Subchapter 5, Section 5.12.	Registration Plate Decals.	December 6, 1999 ....	January 22, 2002, 67 FR 2811.	
Title 13, Chapter 21, Subchapter 15, Sections 15.8 and 15.12.	New Jersey Licensed Motor Vehicle Dealers.	October 19, 2009 .....	March 15, 2012, 77 FR 15263.	
Title 16, Chapter 53 ...	Autobus Specifications	September 26, 1983 ..	June 13, 1986, 51 FR 21549.	Only Sections 3.23, 3.24, 3.27, 6.15, 6.21, 6.30, 7.14, 7.17, 7.23, 8.15, 8.22, 8.25 are approved.
Title 39, Chapter 8, Subchapter 1.	Motor Vehicle Inspections Exceptions.	July 1, 2010 .....	March 15, 2012, 77 FR 15263.	
Title 39, Chapter 8, Subchapter 2.	Inspection of Motor Vehicles; Rules, Regulations.	July 1, 2010 .....	March 15, 2012, 77 FR 15263.	
Title 39, Chapter 8, Subchapter 3.	Certificate of Approval, Issuance; Owner's Obligation for Safety.	July 1, 2010 .....	March 15, 2012, 77 FR 15263.	

(d) EPA approved State source-specific requirements.

## EPA-APPROVED NEW JERSEY SOURCE-SPECIFIC PROVISIONS

Name of source	Identifier No.	State effective date	EPA approval date	Comments
Johnson Matthey .....	55270	June 13, 1995 .....	January 17, 1997, 62 FR 2581.	NO <sub>x</sub> RACT Facility Specific NO <sub>x</sub> Emission Limits NJAC 7:27–9.13. Multi-chamber metals recovery furnace, installation of low NO <sub>x</sub> burner.

EPA-APPROVED NEW JERSEY SOURCE-SPECIFIC PROVISIONS—Continued

Name of source	Identifier No.	State effective date	EPA approval date	Comments
Sandoz Pharma- ceuticals Corporation.	104855	March 23, 1995 .....	January 17, 1997, 62 FR 2581.	NO <sub>x</sub> RACT Facility Specific NO <sub>x</sub> Emission Limits NJAC 7:27–9.13. Controlled air combustion small trash from fired boiler energy recovery system.
PSEG Fossil Hudson Generation Station.	BOP110001	March 8, 2011 .....	January 3, 2012, 77 FR 19.	NO <sub>x</sub> , SO <sub>2</sub> , PM <sub>10</sub> BART source specific control units: U1–OS1 (cyclone boiler (shutdown)), U1–OS2 (dry bottom wall-fired boiler), U15–OS (coal receiving system), U16–OS (coal reclaim system).
Conoco Phillips (Facility is now Phillips 66.).	BOP110001	September 21, 2011 ...	January 3, 2012, 77 FR 19.	NO <sub>x</sub> , SO <sub>2</sub> and PM <sub>10</sub> BART source specific control units: OS1–E241, OS2–E243, OS3–E245, OS4–E246, OS5–E247, OS6–E248, OS7–E249, OS8–E250, OS11–E242, OS13–E253, and OS15–E258 (process heaters).
Vineland Municipal Electric Utility—How- ard M. Down.	BOP110001	September 26, 2011 ...	January 3, 2012, 77 FR 19.	NO <sub>x</sub> , SO <sub>2</sub> and PM <sub>10</sub> BART source specific control units: U10–OS2 (fuel oil boiler retired September 1, 2012), U10–OS3 (turbine (shutdown)), and U22–OS (emergency generator).
BL England Generating Station (Facility is now RC Cape May.).	BOP100003	December 16, 2010 ....	January 3, 2012, 77 FR 19.	NO <sub>x</sub> , SO <sub>2</sub> and PM <sub>10</sub> BART source specific control units: U1–OS1 (wet bottom coal-fired boiler (shutdown)), U2–OS1 (cyclone wet bottom coal fired boiler), U3–OS1 (oil-fired tangential boiler), U6–OS1 (emergency fire water pump engine), U7–OS1, U7–OS2, U7–OS4, U7–OS5, U7–OS6, U7–OS7, U7–OS10, U7–OS11, U7–OS12 (coal handling systems) and U8–OS1 (cooling tower).
Atlantic States Cast Iron Pipe Company.	85004	November 22, 1994 ....	October 20, 1998, 63 FR 55949.	Approving NO <sub>x</sub> RACT Source Specific regulations NJAC 7:27–19.13 Cupola and Annealing Oven processes. Effective date 12/21/98.
Trigen-Trenton Energy Co.	61015	January 11, 2007 .....	July 16, 2008, 73 FR 40752.	Alternative NO <sub>x</sub> Emission Limit pursuant to NJAC 7:27–19.13 For 2 Cooper Bessemer Distillate Oil or Dual Fired 4 stroke Diesel Internal Combustion Engines.
PSE&G Nuclear Hope Creek and Salem Generating Stations Cooling Tower.	BOP050003	August 7, 2007 Signifi- cant Modification Approval.	April 1, 2009, 74 FR 14734.	TSP/PM 10 Source Specific Variance to SIP NJAC 7:27–6.5 Cooling Tower Unit 24, OS1 Effective Date 5/1/2009.
Co-Steel Corp of Sayreville (Formerly New Jersey Steel Corporation).	15076	September 3, 1997 .....	November 12, 2003, 68 FR 63991.	NO <sub>x</sub> Source specific emission limit under NJAC 7:27–19.13 for Electric arc furnace, melt shop metallurgy and billet reheat furnace sources. Effective date 12/13/2003.

(e) EPA approved nonregulatory and quasi-regulatory provisions.

EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
New Jersey NO <sub>x</sub> SIP Call Budget Dem- onstration.	Statewide .....	April 26, 1999 and supplemented on July 31, 2000.	May 22, 2001, 66 FR 28063.	
2002 and 2005 Rea- sonable Further Progress Plans.	New Jersey portion of the New York-North- ern New Jersey-Long Island and Philadel- phia-Wilmington-Trenton 1-hour ozone nonattainment areas.	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	
2007 Reasonable Fur- ther Progress Plans.	New Jersey portion of the New York-North- ern New Jersey-Long Island 1-hour ozone nonattainment area.	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	
2002, 2005 and 2007 Transportation Con- formity Budgets.	New Jersey portion of the New York-North- ern New Jersey-Long Island Severe and Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment areas.	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	

## EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
Updated 1990, 1996, 1999, 2002 and 2005 General Conformity Emissions Budget.	McGuire Air Force Base .....	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	
2002, 2005 and 2007 Ozone Projection Year Emission Inventories.	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment areas.	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	
1996 Base Year Emission Inventories.	Statewide and New Jersey portion of the New York-Northern New Jersey-Long Island Severe and Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment areas.	April 11, 2001 .....	February 4, 2002, 67 FR 5152.	
RACM Analysis .....	New Jersey portion of the New York-Northern New Jersey-Long Island Severe and Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment areas.	October 16, 2001 .....	February 4, 2002, 67 FR 5152.	
1-Hour ozone Attainment Demonstration for 2007.	New Jersey portion of the New York-Northern New Jersey-Long Island Severe and Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment area.	August 31 and October 16, 1998 and April 26, 2000.	February 4, 2002, 67 FR 5152.	
1-Hour ozone Attainment Demonstration for 2005.	New Jersey portion of the Philadelphia-Wilmington-Trenton 1-hour ozone nonattainment area.	August 31 and October 16, 1998 and April 26, 2000.	February 4, 2002, 67 FR 5152.	
CO Attainment Demonstration and Redesignation Request.	New Jersey portion of the New York-Northern New Jersey-Long Island 8-hour CO nonattainment area.	January 15, 2002 .....	August 23, 2002, 67 FR 54574.	
1996 CO Attainment Inventory.	New Jersey portion of the New York-Northern New Jersey-Long Island 8-hour CO nonattainment area.	August 7, 1998 and supplemented on October 1, 2001 and January 15, 2002.	August 23, 2002, 67 FR 54574.	
2007 and 2014 CO Projection Inventories.	New Jersey portion of the New York-Northern New Jersey-Long Island 8-hour CO nonattainment area.	January 15, 2002 .....	August 23, 2002, 67 FR 54574.	
1997, 2007 and 2014 Transportation Conformity Budgets.	New Jersey portion of the New York-Northern New Jersey-Long Island 8-hour CO nonattainment area.	December 10, 1999 and January 15, 2002.	August 23, 2002, 67 FR 54574.	
Redesignation request to attainment for the CO nonattainment area.	New Jersey portion of the New York-Northern New Jersey-Long Island 8-hour CO nonattainment area.	November 15, 1992, October 4, 2003 and August 7, 1998 and supplemented on October 1, 2001 and January 15, 2002.	August 23, 2002, 67 FR 54574.	
CO Maintenance Plan	Atlantic, Burlington, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem and Somerset (the 9 non-classified areas) and Camden County, in New Jersey. CO NAAQS.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
2002 CO Attainment Inventory.	Atlantic, Burlington, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem and Somerset (the 9 non-classified areas) and Camden County, in New Jersey. CO NAAQS.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
1997 and 2007 CO Transportation Conformity Motor Vehicle Emission Budgets.	Atlantic, Burlington, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem and Somerset (the 9 non-classified areas) and Camden County, in New Jersey. CO NAAQS.	May 21, 2006 .....	July 10, 2006, 71 FR 38770.	
2007 and 2014 CO Transportation Conformity Emission Budgets.	Five county New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
2002 VOC, NO <sub>x</sub> and CO ozone season and annual emissions inventory.	State-wide .....	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	

## EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
2002 PM <sub>2.5</sub> and associated precursors annual emissions inventory.	New Jersey portion of the New York-Northern New Jersey-Long Island PM <sub>2.5</sub> nonattainment area and statewide.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
2005 and 2007 VOC, NO <sub>x</sub> and Transportation Conformity Emission Budgets.	New Jersey portion of the New York-Northern New Jersey-Long Island ozone nonattainment area.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
Updated 1990, 1996, 1999, 2002 and 2005 General Conformity Emissions Budget.	McGuire Air Force Base .....	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
2005 and 2007 VOC and NO <sub>x</sub> Transportation Conformity Emission Budgets.	New Jersey portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area.	May 18, 2006 .....	July 10, 2006, 71 FR 38770.	
2008 VOC and NO <sub>x</sub> Projection Inventories.	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City ozone nonattainment areas.	October 29, 2007 .....	May 15, 2009, 74 FR 22837.	
2008 Reasonably Further Progress Plans.	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City ozone nonattainment areas.	October 29, 2007 .....	May 15, 2009, 74 FR 22837.	
RACM Analysis .....	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City ozone nonattainment areas.	October 29, 2007 .....	May 15, 2009, 74 FR 22837.	
2008 VOC and NO <sub>x</sub> Transportation Conformity Budgets.	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City ozone nonattainment areas.	October 29, 2007 .....	May 15, 2009, 74 FR 22837.	
2008–2011 VOC and NO <sub>x</sub> General Conformity Budgets.	McGuire Air Force Base and Lakehurst Naval Air Station.	October 29, 2007 .....	May 15, 2009, 74 FR 22837.	
RACT Analysis .....	State-wide .....	August 1, 2007 .....	May 15, 2009, 74 FR 22837.	
Regional Haze Plan from 2002–2018.	State-wide .....	July 28, 2009 and supplemented on December 9, 2010, March 2, 2011 and December 7, 2011.	January 3, 2012, 77 FR 19.	
2002 and 2018 Regional Haze Modeling and Projection Inventory.	State-wide .....	July 28, 2009 and supplemented on December 9, 2010, March 2, 2011 and December 7, 2011.	January 3, 2012, 77 FR 19.	
Reasonable Progress Goals Visibility Demonstration.	State-wide .....	July 28, 2009 and supplemented on December 9, 2010, March 2, 2011 and December 7, 2011.	January 3, 2012, 77 FR 19.	
BART Analysis .....	State-wide .....	July 28, 2009 and supplemented on December 9, 2010, March 2, 2011 and December 7, 2011.	January 3, 2012, 77 FR 19.	
8-hour ozone Attainment Demonstration.	New Jersey portion of the New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City 8-hour ozone nonattainment areas.	October 29, 2007 .....	February 11, 2013, 78 FR 9596.	
NJ Infrastructure SIP ..	1997 8-hour ozone and 1997 and 2006 PM <sub>2.5</sub> Standards.	February 25, 2008 and supplemented on January 15, 2010.	June 14, 2013, 78 FR 35764.	

## EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
Redesignation Request.	New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT and New Jersey portion of the Philadelphia-Wilmington PA-NJ-DE PM <sub>2.5</sub> 1997 annual and 2006 24-hour PM <sub>2.5</sub> nonattainment areas.	December 26, 2012 and supplemented on May 3, 2013.	September 4, 2013, 78 FR 54396.	
PM <sub>2.5</sub> Attainment Demonstration.	New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT and New Jersey portion of the Philadelphia-Wilmington PA-NJ-DE PM <sub>2.5</sub> 1997 annual and 2006 24-hour PM <sub>2.5</sub> nonattainment areas.	December 26, 2012 and supplemented on May 3, 2013.	September 4, 2013, 78 FR 54396.	
2007 Annual Attainment Inventory for PM <sub>2.5</sub> and the associated PM <sub>2.5</sub> precursors.	New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT and New Jersey portion of the Philadelphia-Wilmington PA-NJ-DE PM <sub>2.5</sub> 1997 annual and 2006 24-hour PM <sub>2.5</sub> nonattainment areas.	December 26, 2012 and supplemented on May 3, 2013.	September 4, 2013, 78 FR 54396.	
2017 (Interim) and 2025 PM <sub>2.5</sub> and NO <sub>x</sub> Annual Projection Inventories.	New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT and New Jersey portion of the Philadelphia-Wilmington PA-NJ-DE PM <sub>2.5</sub> 1997 annual and 2006 24-hour PM <sub>2.5</sub> nonattainment areas.	December 26, 2012 and supplemented on May 3, 2013.	September 4, 2013, 78 FR 54396.	
2009 and 2025 PM <sub>2.5</sub> and NO <sub>x</sub> Annual Emissions Motor Vehicle Emission Budgets.	New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT and New Jersey portion of the Philadelphia-Wilmington PA-NJ-DE PM <sub>2.5</sub> 1997 annual and 2006 24-hour PM <sub>2.5</sub> nonattainment areas.	December 26, 2012 and supplemented on May 3, 2013.	September 4, 2013, 78 FR 54396.	
CO Limited Maintenance Plan.	New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area.	June 11, 2015 and February 2016.	July 1, 2016, 81 FR 43096.	
2007 CO Attainment inventory.	New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area.	June 11, 2015 and February 2016.	July 1, 2016, 81 FR 43096.	

**§ 52.1605 [Removed and Reserved]**

■ 4. Section 52.1605 is removed and reserved.

[FR Doc. 2017-13657 Filed 6-30-17; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2012-0166; FRL-9964-35-Region 4]

**Air Plan Approval; FL: Revisions to New Source Review, Definitions and Small Business Assistance Programs**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the Florida State Implementation Plan (SIP) to update definitions and make administrative edits to regulations for the Plantwide Applicability Limits

(PALs) and Florida's Small Business Assistance program (SBA). EPA is proposing to approve portions of a SIP revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on July 1, 2011, to update definitions and make administrative edits to PALs and the SBA. This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective September 1, 2017 without further notice, unless EPA receives adverse comment by August 2, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0166 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW.,

Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. What action is EPA taking?

On July 1, 2011, FDEP submitted to EPA for approval a SIP revision that involves changes to Florida's regulations related to permitting and administrative procedures, among other changes. In this action, EPA is approving the portions of the Florida submission that make changes to definitions affecting the major New Source Review (NSR) program, changes to other miscellaneous definitions, and administrative changes to Florida's NSR PAL provisions and SBA program. Florida's NSR program, which applies to the construction and modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C and part D of title I of the CAA, is modified with this direct final action at Rule 62–210.200, Florida Administrative Code (F.A.C.), “Definitions,” and 62–212.720, “Actuals Plantwide Applicability Limits (PALs).” EPA is also approving miscellaneous changes to definitions. Finally, EPA is approving the portion of the July 1, 2011, submission that revises Rule 62–210.220, “Small Business Assistance Program,” which provides for compliance assistance for qualifying small business stationary sources.

Changes in the July 1, 2011, submission made to Rule 62–212.400, “Prevention of Significant Deterioration,” were approved on June 15, 2012 (77 FR 35862). The June 15, 2012, final rule also approved the NSR definition of “major modification,” at Rule 62–210.200(186) included in the July 1, 2011, SIP submission.

At this time, the Agency is not acting on the following changes included in the July 1, 2011, submission at Rule 62–210.200, “Definitions”: (28), “animal crematory,” (41), “biological waste,” (42), “biological waste incinerator,” (44), “biomedical waste,” and (158), “human crematory.” EPA is also not acting on the changes made to rules in Chapter 62–296, “Stationary Sources—Emission Standards,” included in the July 1, 2011, submission. EPA will consider these remaining portions of the July 1, 2011, submission in a separate action.

##### II. Background

This direct final action will update Florida's definitions and make changes to rules approved into the SIP. Changes made to definitions are related to basic definitions of criteria air pollutants and

their precursors and minor edits to permitting and NSR terms. Definitions are also partly renumbered with the July 1, 2011, submission. The changes made to the regulations, other than definitions, are administrative in nature, including updating internal references.

##### III. Analysis of Florida's SIP Revision

###### A. Rule 62–210.200—Definitions

Florida's July 1, 2011, SIP revision makes changes to definitions for criteria air pollutants and their precursors. Florida adds a definition at Rule 62–210.200(211) for “nitrogen oxides” to be consistent with EPA regulations, referencing test methods at 40 Code of Federal Regulations part 60 (40 CFR part 60). The July 1, 2011, SIP submission revises the definition of “PM<sub>10</sub>,” or “particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers,” at Rule 62–210.200(235), renumbered from (221), correcting a typographical error to reference EPA test methods at 40 CFR part 51, subpart M. Finally, the July 1, 2011, SIP revision changes the definition of “Volatile Organic Compounds (VOC)” at Rule 62–210.200(326), renumbered from (306). This change for VOC incorporates the federal definition of VOC at 40 CFR 51.100(s) by reference rather than requiring the State to periodically incorporate individual changes to the federal definition. These changes to definitions became state effective on October 12, 2008.

The July 1, 2011, SIP revision made changes to definitions related to NSR to correct typographical errors, to make internal references consistent, renumber definitions, and make minor administrative edits. Florida changed the definition of “best available control technology,” at Rule 62–210.200(40), by correcting a typographical error carried over from a previous revision. No substantive change was made to the SIP-approved definition, and the minor edits became state effective on October 12, 2008. The July 1, 2011, SIP revision also changed the definition of “federally enforceable,” at Rule 62–210.200(136), renumbered from (124), to clarify citations to rules under which federally enforceable permits are issued or were historically issued. This change to “federally enforceable” became state effective on February 11, 1999. Florida also revised the definition of “modification” at Rule 62–210.200(199), renumbered from (183), to remove references to non-SIP related uses of the term. In addition to removing references to 40 CFR part 60 (New Source Performance Standards), 40 CFR part 61

(National Emission Standards for Hazardous Air Pollutants), and CAA section 112 (Hazardous Air Pollutants), a reference to 40 CFR part 52 (Approval and Promulgation of Implementation Plans) is removed from this definition. However, the remaining portion of the SIP-approved definition is nonetheless consistent with the definition as used under 40 CFR part 52. This change became state effective on February 11, 1999. The Florida submission revises the definition of “net emissions increase” at Rule 62–210.200(204), renumbered from (179) and state effective on October 12, 2008, to correct typographical errors and to remove numbered citations to other definitions within Rule 62–210.200, adding explicit references for “actual emissions” and “baseline actual emissions” within the definition instead. No substantive changes are made to the definition of “net emissions increase.” Florida also modifies the definition of “regulated air pollutant” at Rule 62–210.200(255), renumbered from (237), to make an administrative edit that corrected “any volatile organic compound” to “volatile organic compounds” to be consistent with EPA use of the collective term. This change to “regulated air pollutant” became state effective on October 12, 2008. Finally, the July 1, 2011, submission revises the definition of “significant impact” at Rule 62–210.200(275), renumbered from (253) and state effective on November 13, 1997, to correct a typographical error. Florida's definition of “significant impact” largely corresponds with EPA's provisions for significant impact levels (SILs) for pollutants impacting nonattainment areas at 40 CFR 51.165(b)(2), but Florida includes a SIL for lead, which has never been included in the federal provision. With this SIP revision, Florida is removing SILs under lead for 1-hour periods and 8-hour periods, which were carried over in error from the carbon monoxide SIL, as well as an additional typographical error. No substantive change is made to the SIP-approved definition.

EPA is approving these changes to definitions in the Florida SIP, which became state effective at the following dates as described above: November 13, 1997, February 11, 1999, and October 12, 2008. The renumbering of definitions, which is the final change to Rule 62–210.200 included in the SIP revision, became state effective on March 11, 2010.

###### B. Rule 62–210.220—Small Business Assistance Program

The July 1, 2011, submission makes changes to Florida's SBA program at Rule 62–210.220(2)(c) by updating

obsolete references to State rules and updating the reference to Chapter 28–106, F.A.C. The SBA program previously referenced Florida Chapter 62–103, “Rules of Administrative Procedure,” for sources responding to determinations or petitioning for determinations to be included in the SBA program. The State adopted new rules at Chapter 28–106, “Decisions Determining Substantial Interests,” on April 1, 1997. The new Chapter repealed Rule 62–103 and made these types of administrative procedures standard across all Florida state agencies. The SIP revision is administrative in nature and became state effective on February 11, 1999. EPA is approving this change to make references to State rules consistent in the SIP.

#### C. Rule 62–212.720—Plantwide Applicability Limits

The July 1, 2011, submittal revises the PAL provisions only to correct an error at Rule 62–212.720(1). The introductory paragraph affected previously referenced a non-existent definition at Rule 62–210.200, and the reference was deleted. This revision is administrative in nature and became state effective on October 6, 2008. EPA is approving this change into the Florida SIP.

#### IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Florida Rule 62–210.200, F.A.C. entitled “Definitions,” effective March 11, 2010, to add definitions and make administrative updates, Rule 62–210.220, F.A.C., entitled “Small Business Assistance Program,” effective October 6, 2008, to correct internal references, and Rule 62–210.720, F.A.C., entitled “Actuals Plantwide Applicability Limits (PALs),” which corrects an error effective December 17, 2013.<sup>1</sup> Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the

Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Final Action

EPA is approving the aforementioned changes to the SIP because they are consistent with the CFR and the CAA. Because these changes are administrative and insignificant in nature, they are in accordance with section 110(l) of the CAA because they will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 1, 2017 without further notice unless the Agency receives adverse comments by August 2, 2017.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 1, 2017 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the Agency may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a).

Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

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

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

<sup>1</sup> The state effective date of the change to Rule 62–210.720, F.A.C. made in Florida’s July 1, 2011, SIP revision is October 6, 2008. However, for purposes of the state effective date included at 40 CFR 52.520(c), that change to Florida’s rule is captured and superseded by Florida’s update in a December 19, 2013, SIP revision, state effective on December 17, 2013, which EPA previously approved on May 19, 2014. See 78 FR 28607.

<sup>2</sup> 62 FR 27968 (May 22, 1997).



agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 1, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: June 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart K—Florida**

■ 2. Section 52.520(c) is amended under Chapter 62–210 and 62–212 by revising entries for “62–210.200,” “62–210.220,” and “62–212.720” to read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED FLORIDA REGULATIONS**

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
<b>Chapter 62–210 Stationary Sources—General Requirements</b>				
62–210.200	Definitions	3/11/10	7/3/2017	[Insert citation of publication].
62–210.220	Small Business Assistance Program.	10/6/08	7/3/2017	[Insert citation of publication].
* * *	* * *	* * *	* * *	* * *
<b>Chapter 62–212 Stationary Sources—Preconstruction Review</b>				
62–212.720	Actuals Plantwide Limits (PALs). Applicability	12/17/13	7/3/2017	[Insert citation of publication].
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*  
[FR Doc. 2017–13862 Filed 6–30–17; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 52**  
[EPA–R09–OAR–2016–0726; FRL–9960–08–Region 9]  
**Approval and Limited Approval and Limited Disapproval of Air Quality Implementation Plans; California; Mendocino County Air Quality Management District; Stationary Source Permits**  
**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.  
**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing action on four permitting rules submitted as a revision to the Mendocino County Air Quality Management District (“MCAQMD” or “the District”) portion of the applicable state implementation plan (SIP) for the State of California pursuant to requirements under the Clean Air Act (CAA or Act). We are finalizing a limited approval and limited disapproval of one rule and finalizing approval of the remaining three permitting rules. The amended

rules govern the issuance of permits for stationary sources, including review and permitting of minor sources, and major sources and major modifications under part C of title I of the Act. The limited disapproval action triggers an obligation for EPA to promulgate a Federal Implementation Plan (FIP) for the specific New Source Review (NSR) program deficiencies unless California submits and we approve SIP revisions that correct the deficiencies within two years of the final action.

**DATES:** This rule will be effective on August 2, 2017.

**ADDRESSES:** The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2016-0726. All documents in the docket are listed on

the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. **FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, by phone: (415) 972-3534 or by email at [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

**Table of Contents**

- I. Proposed Action
- II. EPA Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On December 27, 2016 (81 FR 95074), the EPA proposed a limited approval and limited disapproval (LA/LD) or a full approval (as noted in the table) of the following rules that were submitted for incorporation into the Mendocino County portion of the California SIP.

TABLE 1—SUBMITTED NSR RULES

Rule No.	Rule title	Amended/adopted	Submitted	Proposed action
1-130	Definitions	9/20/16	11/15/16	Full Approval.
1-200	Permit Requirements	9/20/16	11/15/16	Full Approval.
1-220	New Source Review Standards (Including PSD Evaluations).	9/20/16	11/15/16	LA/LD.
1-230	Action on Applications	9/20/16	11/15/16	Full Approval.

We proposed a full approval of Rules 1-130, 1-200 and 1-230 because we determined that these rules improve the SIP and are consistent with the relevant CAA requirements. We proposed a limited approval of Rule 1-220 because we determined that the rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval of Rule 1-220 because some rule provisions conflict with part C of the Act. These provisions include the following:

A. Rule 1-220 does not contain any provisions specifying that required air quality modeling shall be based on the applicable models, databases, and other requirements specified in Part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.

B. The requirements of 40 CFR 51.166(r)(1) and (2) have not been met because the rule does not include the necessary information about a source’s obligations.

**II. EPA Action**

No comments were submitted. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval of Rule 1-220 and a full approval of Rules 1-130, 1-200 and 1-230. This action incorporates the submitted rules into the Mendocino County portion of the California SIP, including those

provisions identified as deficient. As authorized under section 110(k)(3) and 301(a), the EPA is simultaneously finalizing a limited disapproval of Rule 1-220.

As a result, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule within 24 months. EPA staff are coordinating with Mendocino County AQMD and expect resolution of the deficiencies before a FIP would be required.

In addition, because we are finalizing our proposed action, the California Infrastructure SIP deficiencies identified in our April 2016 (81 FR 18766) rulemaking with respect to Mendocino County AQMD for the 1997 and 2006 PM<sub>2.5</sub> NAAQS are remedied. Therefore, we are updating the Mendocino County portion of the California SIP accordingly.

**III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and in

hard copy at the U.S. Environmental Protection Agency, Region IX (Air -3), 75 Hawthorne Street, San Francisco, CA, 94105-3901.

**IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.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 the Office of Management and Budget (OMB) for review.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

*E. 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.

*F. Executive Order 13175: Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

*H. 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.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities

unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the 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).

*L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 1, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

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

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

Dated: March 1, 2017.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraphs (c)(119)(ii)(C), (c)(158)(i)(D), and (c)(489) and removing and reserving paragraphs (c)(171)(i)(A) and (c)(385)(i)(A) to read as follows:

**§ 52.220 Identification of plan—in part.**

\* \* \* \* \*

- (c) \* \* \*
- (119) \* \* \*
- (ii) \* \* \*

(C) Previously approved on June 18, 1982 in paragraph (c)(119)(ii)(A) of this section and now deleted with replacement in paragraph (c)(489)(i)(A)(4) of this section, Rule 230.

\* \* \* \* \*

- (158) \* \* \*
- (i) \* \* \*

(D) Previously approved on July 31, 1985 in paragraph (c)(158)(i)(B) of this section and now deleted with replacement in paragraph (c)(489)(i)(A)(3) of this section, Chapter II, 220 (a)(2) and (b)(3, 4, 6, 8 and 9).

\* \* \* \* \*

- (171) \* \* \*
- (i) \* \* \*
- (A) [Reserved]

\* \* \* \* \*

- (385) \* \* \*
- (i) \* \* \*
- (A) [Reserved]

\* \* \* \* \*

(489) Amended regulations for the following AQMD was submitted on November 15, 2016 by the Governor’s Designee.

(i) *Incorporation by Reference.* (A) Mendocino County Air Quality Management District.

(1) Regulation I, Rule 1–130, “Definitions,” amended on September 20, 2016.

(2) Regulation I, Rule 1–200, “Permit Requirements,” amended on September 20, 2016.

(3) Regulation I, Rule 1–220, “New Source Review Standards (Including PSD Evaluations),” amended on September 20, 2016.

(4) Regulation I, Rule 1–230, “Action on Applications,” amended on September 20, 2016.

**§ 52.223 [Amended]**

■ 3. Section 52.223 is amended by removing and reserving paragraphs (i)(2), (j)(1), (k)(1), (l)(2), (m)(1), (n)(1), and (o)(1).

**§ 52.233 [Amended]**

■ 4. Section 52.233 is amended by removing and reserving paragraph (d)(12).

■ 5. Section 52.270 is amended by revising paragraph (b)(3) introductory text to read as follows:

**§ 52.270 Significant deterioration of air quality.**

\* \* \* \* \*

(b) \* \* \*

(3) The PSD program for Mendocino County Air Quality Management District, as incorporated by reference in

§ 52.220(c)(489) is approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 except for paragraph (a)(1) are therefore incorporated and made a part of the State plan for California for the Mendocino County Air Quality Management District for:

\* \* \* \* \*

**§ 52.283 [Amended]**

■ 6. Section 52.283 is amended by removing and reserving paragraphs (c)(1)(i), (d)(1)(i), (e)(2)(i), (f)(2)(i), and (g)(1)(i).

[FR Doc. 2017-13188 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

# Proposed Rules

Federal Register

Vol. 82, No. 126

Monday, July 3, 2017

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.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 704

RIN 3133-AE75

#### Corporate Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) proposes to amend its regulations governing corporate credit unions (corporates) and the scope of their activities. Specifically, the proposed amendments revise provisions on retained earnings and Tier 1 capital.

**DATES:** Comments must be received on or before September 1, 2017.

**ADDRESSES:** You may submit comments by any of the following methods, but please send comments by one method only:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *NCUA Web site:* [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- *Email:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name]—Comments on Proposed Rule—Corporate Credit Unions” in the email subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for email.

- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

#### FOR FURTHER INFORMATION CONTACT:

Yvonne Applonie, Director of Supervision, Office of National Examinations and Supervision, at the above address or telephone (703) 518-6595; or Marvin Shaw, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6553.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The financial crisis of 2007–2009 took a heavy toll on the corporate credit union system. The crisis, largely mortgage related, greatly affected the investment portfolios of many corporates causing widespread liquidity problems, instability in the system, and failures. During this time period, NCUA took extraordinary short and mid-term measures to stabilize the corporate system. Among other things, it: (1) Made capital injections; (2) approved the Temporary Corporate Credit Union Share Guarantee Program, which guaranteed uninsured shares at participating corporates; (3) engaged the services of an independent, highly qualified third party to conduct a comprehensive analysis of expected non-recoverable credit losses for distressed securities held by corporates; (4) conserved five corporates;<sup>1</sup> and (5) created the NCUA Guaranteed Note Program.<sup>2</sup>

To provide longer term structural enhancements to the corporate system, the Board comprehensively revised part 704, the regulations governing corporates and their activities, in 2010.<sup>3</sup> The 2010 rule’s primary purpose was to establish a regulatory framework that provides a foundation for a healthy corporate system that: (1) Delivers important services to the corporates’ natural person credit union members, such as payment systems and liquidity; and (2) builds and attracts sufficient capital.<sup>4</sup> The 2010 rule also helped to prevent the recurrence of the kind of financial losses that led to the failure of the referenced five corporates and weakened the financial condition of several others.

The 2010 rule curtailed several of the practices that led to the referenced corporate failures. Specifically, it established investment concentration

<sup>1</sup> The five were U.S. Central, Western Corporate, Members United Corporate, Southwest Corporate, and Constitution Corporate.

<sup>2</sup> As part of the corporate system resolution, NCUA created the NCUA Guaranteed Note Program to provide long-term funding for distressed investment securities (Legacy Assets) from the five failed corporate credit unions. Legacy Assets consisted of over 2,000 investment securities, secured by approximately 1.6 million residential mortgages, as well as commercial mortgages and other securitized assets.

<sup>3</sup> 12 CFR part 704; 75 FR 64786 (Oct. 20, 2010).

<sup>4</sup> 75 FR 64787, 64787 (Oct. 20, 2010).

limits, limited asset maturities, and prohibited investments in subordinated and private label mortgage-backed securities. Most relevant to this proposal, the 2010 rule also implemented a prompt corrective action (PCA) regime stipulating capital adequacy for corporates. Largely based on the Basel I requirements, the capital requirements of the 2010 rule emphasized the importance of corporates holding tangible and durable capital.

It has been nearly seven years since the Board issued the 2010 rule. In that time, NCUA’s efforts have had the intended effect of stabilizing the corporate system and improving the corporates’ ability to function and provide needed services to natural person credit unions. Additionally, the overall economy has improved greatly, thereby improving the economic landscape in which corporates operate. Further, the large concentration of troubled assets within the corporate system has been reduced through portfolio repositioning or NCUA intervention. The corporate system has significantly contracted and consolidated, with assets declining from approximately \$81.7 billion prior to the 2010 rule to approximately \$24.9 billion today. In that same time period, the number of corporates has declined from 26 to 11. Given all of these positive developments, the Board believes conditions are such that it is now safe and appropriate to revisit the capital standards of the 2010 rule. As discussed in more detail below, the proposed amendments to the corporate rule primarily affect the calculation of capital after corporates consolidate and set a retained earnings ratio target in meeting PCA standards.

##### II. Proposed Amendments

###### *Corporate Consolidations and Capital*

In 2015, the Board made further refinements to part 704. Specifically, the Board amended the definition of “Tier 1 capital” to include as a component of that term, the retained earnings acquired through a merger. Given that retained earnings acquired through a merger are currently not recorded on the continuing corporate’s financial statements, the amount must be recorded outside of the financial statements. This approach does not follow Generally Accepted Accounting

Principles (GAAP), thus inhibiting transparency of capital adequacy. The Board believes a corporate will be more transparent presenting its capital adequacy by adopting conventions more closely aligned with its published financial statements. Accordingly, with respect to the definition of “retained earnings,” the Board proposes to incorporate “GAAP equity acquired in a merger” as a component of retained earnings. This amendment to the definition of “retained earnings” will, in turn, affect the definition of “Tier 1 capital,” which includes retained earnings as one of the components of Tier 1 capital.

More specifically, the current definition of “retained earnings” includes undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for losses, and other appropriations from undivided earnings as designated by management or NCUA. Including “GAAP equity acquired in a merger” to that list gives recognition to standard accounting conventions for purposes of consolidating records between merged entities. As a practical matter, the Board has treated equity acquired in a merger as retained earnings, but did so in the context of defining contributed capital’s ability to cover losses. The Board believes that expressly including such equity acquired in a merger as retained earnings and referencing GAAP will clarify that this capital is available to cover losses, enhance transparency, and reduce ambiguity.

Further, the Board proposes to delete the phrase “the retained earnings of any acquired credit union, or an integrated set of activities and assets, calculated at the point of acquisition, if the acquisition is a mutual combination” from the current definition of “Tier 1 capital.” This provision becomes redundant as a result of the expanded definition of retained earnings which will include GAAP equity acquired in a merger.

#### *Retained Earnings Ratio*

In addition to the Board’s proposed amendments to the definitions of “retained earnings” and “Tier 1 capital” as discussed above, the Board also proposes to add a definition of “retained earnings ratio” to part 704.

The 2010 rule’s PCA provisions require corporates to meet a leverage ratio.<sup>5</sup> The leverage ratio primarily

consists of retained earnings and perpetual contributed capital (PCC).<sup>6</sup> Capital included in the leverage ratio incorporated the provisions of Tier 1 capital as defined by the bank regulatory agencies, with a notable exception. The Board recognizes that while corporates had been permitted to secure contributed capital from any source, history has shown that nearly all contributed capital has been invested by federally insured natural person credit unions. As such, depletions of corporate capital can lead to corresponding investment impairments and capital erosion at the natural person credit unions. This can lead to greater exposure of loss to the National Credit Union Share Insurance Fund. The 2010 rule encouraged corporates to build sufficient retained earnings to absorb losses without causing a corresponding loss to another party, such as a natural person credit union that purchased contributed capital from that corporate (*i.e.*, perpetual and non-perpetual capital as defined in the rule).

The incentive to build retained earnings was created by limiting the amount of contributed capital permitted to be included in calculating the corporate’s leverage ratio.<sup>7</sup> The limitation on PCC was phased-in over a period of ten years recognizing the erosion of corporate capital during the financial crisis and reasonable expectations for future corporate profitability.<sup>8</sup> Until October 2016, all PCC was included in the leverage ratio. Effective October 2016, part 704 requires corporates to deduct the amount of PCC exceeding retained

before October 21, 2013, the leverage ratio was defined as the ratio of total capital to moving daily average net assets. This ratio was called the “interim” leverage ratio. After October 21, 2013, the leverage ratio was redefined as the ratio of adjusted core capital to moving daily average net assets. This was called the permanent leverage ratio. In May 6, 2015 the NCUA Board approved changes to the regulation that sought to simplify and clarify the capital definitions in the regulations now that the major phase-in dates had passed. The definitions of core capital and adjusted core capital were combined into one definition called Tier 1 capital. The leverage ratio and other related capital ratio definitions were similarly amended to reflect the change to Tier 1 Capital.

<sup>6</sup> Perpetual Contributed Capital means accounts or other interests of a corporate credit union that are perpetual, non-cumulative dividend accounts; are available to cover losses that exceed retained earnings, are not insured by the National Credit Union Share Insurance Fund or other share or deposit insurers; and cannot be pledged against borrowings. In the event the corporate is liquidated, any claims made by the holders of the perpetual contributed capital will be subordinate to all other claims (including National Credit Union Share Insurance Fund claims).

<sup>7</sup> 12 CFR 704.2

<sup>8</sup> As financial intermediaries, the net margins for corporates have been low with a historical average net return on assets ratio of approximately 23 bps.

earnings by 200 basis points. Effective October 2020, corporates must deduct the amount of PCC exceeding retained earnings.

The 2010 revisions to part 704 have resulted in the intended effect. Specifically, all corporates have accumulated sufficient retained earnings to meet or exceed the adequate capitalization threshold under PCA through the October 2016 phase-in adjustment.

While the result has been positive, the Board recognizes that the language in the current rule is indirect and may disadvantage corporates working with third parties. The limitation on PCC for regulatory capital purposes does not recognize the full value of PCC that stands to absorb losses and protect counterparties. Further, the construct to reduce the inclusion of PCC as capital provides for inconsistent treatment compared to capital regulations governing other types of financial institutions, such as banks, and could promote confusion. Accordingly, the Board proposes to remove the requirement effective October 2020 to limit PCC counted as Tier 1 capital to the amount of retained earnings. Further, the Board proposes to permit a corporate to include in its Tier 1 capital all PCC that is sourced from an entity not covered by federal share insurance.

However, recognizing that retained earnings is critical to the health of the corporate system and the share insurance fund, the Board proposes to add a provision to part 704 requiring all corporates to achieve an eventual retained earnings ratio of 250 basis points. To that end, the Board proposes to add a definition of “retained earnings ratio” to mean “the corporate credit union’s retained earnings divided by its moving daily average net assets.” Upon attaining this benchmark, a corporate would be permitted to include all PCC, regardless of source, in its Tier 1 capital. The PCA thresholds will remain at their current limits. Until such time as a corporate achieves a 250 basis points retained earnings ratio, it must deduct the amount of PCC exceeding retained earnings by 200 basis points as an inducement to build retained earnings.

The Board believes this proposal will promote clarity as to the minimum amount of retained earnings to be held by a corporate to account for potential losses. In setting this minimum standard, the Board balances it with the risk mitigating provisions of current part 704 including investment concentration limits, NEV volatility limits, asset maturity limits, and investment prohibitions. As such, the Board is not contemplating amending other

<sup>5</sup> The leverage ratio is currently defined as Tier 1 Capital divided by moving daily average net assets. The leverage ratio and capital definitions were revised as part of the 2010 rule, which contained a series of phased in definitions over a three-year period. Beginning October 21, 2011 and

corporate risk taking authorities in part 704.

Appendix B to Part 704—Expanded Authorities and Requirements

Appendix B to part 704 enumerates the expanded authorities available to corporates and the procedures that a corporate must follow to be granted such authorities. The Part I expanded investment authority allows a corporate to take on additional risk in certain investment products. As part of this authority, a corporate’s NEV ratios may decline to specified amounts when meeting certain leverage ratios.

The Board proposes to add a “retained earnings ratio” requirement to the Part I expanded investment authorities. The Board believes that by doing so the retained earnings ratio requirement will limit the risk of the expanded investment portfolios. Specifically, the Board proposes to employ an indexed retained earnings requirement, which will correlate with the actual level of risk taking.

III. Regulatory Procedures

1. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under \$100 million in assets).<sup>9</sup> This proposed rule only affects corporates, all of which have more than \$100 million in assets. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

2. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.<sup>10</sup> For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The proposed rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501).

3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily

complies with the executive order to adhere to fundamental federalism principles. The proposed rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

4. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 23, 2017.

Gerard Poliquin, Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration Board proposes to amend 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for Part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

■ 2. Amend § 704.2 by:

■ a. Revising the definition of “Retained earnings”;

■ b. Adding a definition of “Retained Earnings Ratio”; and

■ c. Revising the definition of “Tier 1 capital” to read as follows:

§ 704.2 Definitions

\* \* \* \* \*

Retained earnings means undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for losses, GAAP equity acquired in a merger, and other appropriations from undivided earnings as designated by management or NCUA.

Retained earnings ratio means the corporate credit union’s retained earnings divided by its moving daily average net assets.

\* \* \* \* \*

Tier 1 capital means the sum of items (1) through (2) of this definition from

which items (3) through (6) are deducted:

- (1) Retained earnings;
- (2) Perpetual contributed capital;
- (3) Deduct the amount of the corporate credit union’s intangible assets that exceed one half percent of its moving daily average net assets (however, NCUA may direct the corporate credit union to add back some of these assets on NCUA’s own initiative, or NCUA’s approval of petition from the applicable state regulator or application from the corporate credit union);
- (4) Deduct investments, both equity and debt, in unconsolidated CUSOs;
- (5) Deduct an amount equal to any PCC or NCA that the corporate credit union maintains at another corporate credit union;
- (6) Deduct any amount of PCC received from federally insured credit unions that causes PCC minus retained earnings, all divided by moving daily average net assets, to exceed two percent when a corporate credit union’s retained earnings ratio is less than two and a half percent.

\* \* \* \* \*

■ 3. Amend by revising paragraphs (b)(2) and (b)(3) of Part I of Appendix B to Part 704 to read as follows:

Appendix B to Part 704—Expanded Authorities and Requirements

\* \* \* \* \*

- (b)(1) \* \* \*
- (2) 28 percent if the corporate credit union has a seven percent minimum leverage ratio and a two and a half percent retained earnings ratio, and is specifically approved by NCUA; or
- (3) 35 percent if the corporate credit union has an eight percent minimum leverage ratio and a three percent retained earnings ratio and is specifically approved by NCUA.

\* \* \* \* \*

[FR Doc. 2017–13642 Filed 6–30–17; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 930 and 932

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1277

RIN 2590-AA70

Federal Home Loan Bank Capital Requirements

AGENCY: Federal Housing Finance Board; Federal Housing Finance Agency.

ACTION: Proposed rule.

<sup>9</sup> 5 U.S.C. 603(a).

<sup>10</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is proposing to adopt, with amendments, the regulations of the Federal Housing Finance Board (Finance Board) pertaining to the capital requirements for the Federal Home Loan Banks (Banks). The proposed rule would carry over most of the existing regulations without material change, but would substantively revise the credit risk component of the risk-based capital requirement, as well as the limitations on extensions of unsecured credit. The principal revisions to those provisions would remove requirements that the Banks calculate credit risk capital charges and unsecured credit limits based on ratings issued by a Nationally Recognized Statistical Rating Organization (NRSRO), and would instead require that the Banks use their own internal rating methodology. The proposed rule also would revise the percentages used in the tables to calculate the credit risk capital charges for advances and non-mortgage assets. FHFA would retain the percentages used in the existing table to calculate the capital charges for mortgage-related assets, but intends to address the appropriate methodology for determining the credit risk capital charges for residential mortgage assets as part of a subsequent rulemaking.

**DATES:** FHFA must receive written comments on or before September 1, 2017. For additional information, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** You may submit your comments, identified by Regulatory Information Number (RIN) 2590-AA70, by any of the following methods:

- *Agency Web site:* [www.fhfa.gov/open-for-comment-or-input](http://www.fhfa.gov/open-for-comment-or-input).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal*, please also send it by email to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by the agency. Please include Comments/RIN 2590-AA70 in the subject line of the message.
- *Courier/Hand Delivery:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA70, Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20219. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel,

Attention: Comments/RIN 2590-AA70, Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20219. Please note that all mail sent to FHFA via the U.S. Mail service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

**FOR FURTHER INFORMATION CONTACT:** Scott Smith, Associate Director, Office of Policy Analysis and Research, [Scott.Smith@FHFA.gov](mailto:Scott.Smith@FHFA.gov), 202-649-3193; Julie Paller, Principal Financial Analyst, Division of Bank Regulation, [Julie.Paller@FHFA.gov](mailto:Julie.Paller@FHFA.gov), 202-649-3201; or Neil R. Crowley, Deputy General Counsel, [Neil.Crowley@FHFA.gov](mailto:Neil.Crowley@FHFA.gov), 202-649-3055 (these are not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Comments**

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments will be posted without change, on the FHFA Web site at <http://www.fhfa.gov>, and will include any personal information you provide, such as your name, address, email address, and telephone number.

##### **II. Background**

###### *A. Establishment of the Federal Housing Finance Agency*

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA)<sup>1</sup> created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), the oversight responsibilities of the Finance Board over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent), and certain functions of the Department of Housing and Urban Development.<sup>2</sup> Under the legislation, the Enterprises, the Banks, and the OF continue to operate under regulations promulgated by OFHEO and the

Finance Board, respectively, until such regulations are superseded by regulations issued by FHFA.<sup>3</sup> While FHFA has previously adopted regulations addressing the capital structure of the Banks and the Banks' capital plans, the Finance Board regulations establishing the Banks' total leverage, and risk-based capital requirements continue to apply to the Banks pursuant to this provision, and would be superseded by this rulemaking.<sup>4</sup>

###### *B. Federal Home Loan Bank Capital and Capital Requirements*

The eleven Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act (Bank Act).<sup>5</sup> The Banks are cooperatives. Only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.<sup>6</sup> Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.<sup>7</sup>

In 1999, the Gramm-Leach-Bliley Act (GLB Act)<sup>8</sup> amended the Bank Act to replace the subscription capital structure of the Bank System. It required the Banks to replace their existing capital stock with new classes of capital stock that would have different terms from the stock then held by Bank System members. Specifically, the GLB Act authorized the Banks to issue new Class A stock, which the GLB Act defined as redeemable six months after filing of a notice by a member, and Class B stock, defined as redeemable five years after filing of a notice by a member. The GLB Act allowed Banks to issue Class A and Class B stock in any combination and to establish terms and preferences for each class or subclass of stock issued, consistent with the Bank Act and regulations adopted by the Finance Board.<sup>9</sup> The classes of stock to be issued, as well as the terms, rights, and preferences associated with each

<sup>3</sup> See 12 U.S.C. 4511, note.

<sup>4</sup> See 80 FR 12755 (March 11, 2015) (FHFA rulemaking); 12 CFR part 932 (Finance Board capital requirement regulations).

<sup>5</sup> See 12 U.S.C. 1423 and 1432(a). The eleven Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, and San Francisco.

<sup>6</sup> See 12 U.S.C. 1426(a)(4), 1430(a), and 1430b.

<sup>7</sup> See 12 U.S.C. 1427.

<sup>8</sup> Public Law No. 106-102, 113 Stat. 1338 (Nov. 12, 1999).

<sup>9</sup> See 12 U.S.C. 1426, and 12 CFR part 1277.

<sup>1</sup> Public Law No. 110-289, 122 Stat. 2654.

<sup>2</sup> See 12 U.S.C. 4511.



class of Bank stock, are governed by a capital structure plan, which is established by each Bank's board of directors and approved by FHFA.

The GLB Act also amended the Bank Act to impose on the Banks new total, leverage, and risk-based capital requirements similar to those applicable to depository institutions and other housing Government Sponsored Enterprises (GSEs) and directed the Finance Board to adopt regulations prescribing uniform capital standards for the Banks.<sup>10</sup> The Finance Board put these regulations in place in 2001 when it published a final capital rule, and later adopted amendments to that rule.<sup>11</sup> In addition to addressing minimum capital requirements, the regulations also established minimum liquidity requirements for each Bank and set limits on a Bank's unsecured credit exposure to individual counterparties and groups of affiliated counterparties.<sup>12</sup> These Finance Board regulations remain in effect and have not been substantively amended since 2001.

The GLB Act amendments to the Bank Act also defined the types of capital that the Banks must hold—specifically permanent and total capital. Permanent capital consists of amounts paid by members for Class B stock plus the Bank's retained earnings, as determined in accordance with generally accepted accounting principles (GAAP).<sup>13</sup> Total capital is made up of permanent capital plus the amounts paid by members for Class A stock, any general allowances for losses held by a Bank under GAAP (but not allowances or reserves held against specific assets or specific classes of assets), and any other amounts from sources available to absorb losses that are determined by regulation to be appropriate to include in total capital.<sup>14</sup> As a matter of practice, however, each Bank's total capital consists of its permanent capital plus the amounts, if

any, paid by its members for Class A stock.

The Bank Act requires each Bank to hold total capital equal to at least 4 percent of its total assets. The statute separately requires each Bank to meet a leverage requirement of total capital to total assets equal to 5 percent, but provides that in determining compliance with this leverage requirement, a Bank must calculate its total capital by multiplying the amount of its permanent capital by 1.5 and adding to this product any other component of total capital.<sup>15</sup>

Each Bank also must meet a risk-based capital requirement by maintaining permanent capital in an amount at least equal to the sum of its credit risk, market risk, and operational risk charges, as measured under the 2001 Finance Board regulations.<sup>16</sup> Under these rules, a Bank must calculate a credit risk capital charge for each of its assets, off-balance sheet items, and derivatives contracts. The basic charge is based on the book value of an asset, or other amount calculated under the rule, multiplied by a credit risk percentage requirement (CRPR) for that particular asset or item, which is derived from one of the tables set forth in the rule. Generally, the CRPR varies based on the rating assigned to the asset by an NRSRO and the maturity of the asset.<sup>17</sup> The market risk capital charge is calculated separately, as the maximum loss in the Bank's portfolio under various stress scenarios, estimated by an approved internal model, such that the probability of a loss greater than that estimated by the model is not more than one percent.<sup>18</sup> The operational risk capital charge equals 30 percent of the combined credit and market risk charges for the Bank, although the rules allow a Bank to demonstrate that a lower charge should apply if FHFA approves and other conditions are met.<sup>19</sup>

### C. The Dodd-Frank Act and Bank Capital Rules

Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires federal agencies to: (i) Review regulations that require the use of an assessment of the creditworthiness of a security or money market instrument; and (ii) to the extent those regulations contain any references to, or requirements based on, NRSRO credit ratings, remove such references or

requirements.<sup>20</sup> In place of such NRSRO rating-based requirements, agencies are instructed to substitute appropriate standards for determining creditworthiness. The Dodd-Frank Act further provides that, to the extent feasible, an agency should adopt a uniform standard of creditworthiness for use in its regulations, taking into account the entities regulated by it and the purposes for which such regulated entities would rely on the creditworthiness standard.

Several provisions of the Finance Board capital regulations include requirements that are based on NRSRO credit ratings, and thus must be revised to comply with the Dodd-Frank Act provisions related to use of NRSRO ratings.<sup>21</sup> Specifically, as already noted, the credit risk capital charges for certain Bank assets are calculated in large part based on the credit ratings assigned by NRSROs to a particular counterparty or specific financial instrument. In addition, the rule related to the operational risk capital charge allows a Bank to calculate an alternative capital charge if the Bank obtains insurance to cover operational risk from an insurer with an NRSRO credit rating of no lower than the second highest investment grade rating. Finally, the capital rules addressed by this rulemaking also establish unsecured credit limits for the Banks based on NRSRO credit ratings. FHFA is proposing to amend each of these provisions to bring them into compliance with the Dodd-Frank Act requirements.

### III. The Proposed Rule

FHFA is proposing to amend part 1277 of its regulations by adopting, with some revisions, the capital requirement regulations of the Finance Board, which are located at 12 CFR part 932.<sup>22</sup> Most of the provisions of the Finance Board regulations would be adopted without change or with only minor conforming changes. The proposed rule, however, would rescind § 932.1, which required

<sup>10</sup> See 12 U.S.C. 1426(a). In 2008, HERA amended the risk-based capital provisions in the Bank Act to allow FHFA greater flexibility in establishing these requirements. Pub. Law No. 110-289, 122 Stat. 2654, 2626 (July 28, 2008) (amending 12 U.S.C. 1426(a)(3)(A)).

<sup>11</sup> See Final Rule: Capital Requirements for Federal Home Loan Banks, 66 FR 8262 (Jan. 30, 2001) (hereinafter Final Finance Board Capital Rule); and Final Rule: Amendments to Capital Requirements for Federal Home Loan Banks, 66 FR 54097 (Oct. 26, 2001). The Finance Board regulations are found at 12 CFR part 932.

<sup>12</sup> See *id.* See also, Final Rule: Unsecured Credit Limits for the Federal Home Loan Banks, 66 FR 66718 (Dec. 27, 2001) (amending 12 CFR 932.9).

<sup>13</sup> See 12 U.S.C. 1426(a)(5).

<sup>14</sup> *Id.* Neither the Finance Board nor FHFA has approved the inclusion within total capital of any other amounts that are available to absorb losses, and no Bank has any such general allowances for losses as part of its capital.

<sup>15</sup> See 12 U.S.C. 1426(a)(2). See also 12 CFR 932.2.

<sup>16</sup> See 12 U.S.C. 1426(a)(3) and 12 CFR 932.3, 932.4, 932.5, and 932.6.

<sup>17</sup> See 12 CFR 932.4.

<sup>18</sup> See 12 CFR 932.5.

<sup>19</sup> See 12 CFR 932.6.

<sup>20</sup> See § 939A, Public Law 111-203, 124 Stat. 1887 (July 21, 2010).

<sup>21</sup> See Advance Notice of Proposed Rulemaking: Alternatives to Use of Credit Ratings in Regulations Governing the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, 76 FR 5292, 5294 (Jan. 31, 2011).

<sup>22</sup> FHFA previously transferred the Finance Board requirements related to the Banks' capital stock and capital structure plans and readopted these provisions, subject to certain amendments, as 12 CFR part 1277, subparts C and D. See Final Rule: Federal Home Loan Bank Capital Stock and Capital Plans, 80 FR 12753 (Mar. 11, 2015). At that time, FHFA also transferred a number of definitions relevant to the capital stock and capital plan requirements from 12 CFR 930.1 to subpart A of part 1277.

the Banks to obtain the approval of the Finance Board for their market risk models prior to implementing their capital plans, which all Banks have done. The proposed rule also would rescind § 932.8, regarding minimum liquidity requirements for the Banks, because FHFA intends to address liquidity requirements as part of a separate rulemaking.<sup>23</sup> The proposal would adopt the substance of § 932.2 and § 932.3, regarding the total capital requirements and risk-based capital requirements, respectively, without change. FHFA is proposing to make minor revisions to the Finance Board regulations pertaining to market risk, operational risk, and reporting requirements, currently located at §§ 932.5, 932.6, and 932.7, respectively. The proposed rule would make significant revisions to two provisions of the Finance Board regulations: § 932.4, regarding credit risk capital requirements; and § 932.9, regarding limits on unsecured credit exposures, principally by removing requirements that are based on NRSRO credit ratings. In both cases, the proposed rule would replace the current approach with one under which the Banks would develop their own internal credit rating methodology to be used in place of the NRSRO credit ratings. With respect to the credit risk capital charges, the proposed rule also would revise the CRPRs used in the current regulation's tables to calculate the credit risk capital charges for advances and for non-mortgage assets, off-balance sheet items, and derivatives contracts. With respect to the unsecured credit limits, the proposed rule would incorporate into the rule text the substance of certain regulatory interpretations that have addressed the application of the unsecured credit limits in particular situations, and would make other changes to account for developments in the marketplace, such as the Dodd-Frank Act's mandate for clearing certain derivatives transactions. The proposed rule would not change the basic percentage limits used to calculate the amount of unsecured credit that a Bank

<sup>23</sup> The current regulation is not determinative of the amount of the Banks' liquidity portfolios. Instead, Banks maintain liquid assets in accordance with guidelines issued in March 2009 that provide for more liquidity than the regulatory requirements. See Letter from Stephen M. Cross, Deputy Director, Division of FHLBank Regulation, to the FHLBank Presidents, March 6, 2009. Under those guidelines, the Banks maintain positive cash balances that would be sufficient to support their operations if they were unable to issue consolidated obligations for a 5-day period during which they renewed all maturing advances, and for a 15-day period during which all maturing advances were repaid. Until FHFA adopts a new liquidity regulation, the March 2009 guidelines will remain applicable.

can extend to a single counterparty or group of affiliated counterparties.

A discussion of the specific changes that FHFA proposes to make to the Banks' current capital regulations as part of this rulemaking follows.

#### Proposed § 1277.1—Definitions

Most of the definitions in proposed § 1277.1 would be carried over without substantive change from current 12 CFR 930.1. FHFA, however, is proposing to define seven new terms, which are: "collateralized mortgage obligation;" "derivatives clearing organization;" "eligible master netting agreement;" "non-mortgage asset;" "non-rated asset;" "residential mortgage;" and "residential mortgage security."

Three of the new terms FHFA proposes to define pertain to the mortgage-related assets that a Bank may hold, which are: "collateralized mortgage obligation," "residential mortgage," and "residential mortgage security." These definitions are straightforward and are intended to be mutually exclusive. They will be used to assign the particular asset to the appropriate category of Table 1.4 that would be used to determine the capital charge for that asset. The term "residential mortgage" is intended to include those mortgage loans that the Banks may purchase as acquired member assets (AMA), and would include both whole loans and participation interests in such loans. These loans must be secured by a residential structure that contains one-to-four dwelling units. The proposed definition would encompass loans on individual condominium or cooperative units, as well as on manufactured housing, whether or not the manufactured housing is considered real property under state law. The definition would not include a loan secured by a multifamily property because the credit risk for such properties differs from loans secured by one-to-four family residences.

The term "residential mortgage security" includes any mortgage-backed security that represents an undivided interest in a pool of "residential mortgages," *i.e.*, mortgage pass-through securities. Both residential mortgages and residential mortgage securities would be grouped together in Table 1.4 of the proposed rule and would have the same credit risk capital charges, assuming the Bank has given them the same internal credit rating. The term "collateralized mortgage obligation" is intended to include any other type of mortgage-related security that is not structured as a pass-through security, *i.e.*, any such security that has two or

more tranches or classes. The capital charges for collateralized mortgage obligations would be derived from a different portion of Table 1.4, and most charges would be higher than those for mortgage pass-through securities. None of these proposed definitions would encompass a commercial mortgage-backed security (CMBS), including one collateralized by mortgage loans on multi-family properties, because the risk characteristics for such securities differ from those on securities representing an interest in, or otherwise backed by, mortgage loans on one-to-four family residential properties. Such CMBS or multi-family property securities would be deemed to be "non-mortgage assets" and the capital charge for them would be determined by using proposed Table 1.2, which applies to internally rated non-mortgage assets, off-balance sheet items, and derivatives contracts.

FHFA proposes to define "derivatives clearing organization" as an organization that clears derivatives contracts and is registered with either the Commodity Futures Trading Commission (CFTC) or the Securities and Exchange Commission (SEC) or is exempted by one of those two Commissions from such registration. The new definition is needed because, as is discussed below, the proposed credit risk capital provision and the proposed unsecured credit provision impose different requirements on derivatives contracts cleared by a derivatives clearing organization than they impose on those not so cleared.

FHFA proposes to define "non-rated asset" to include those assets that are currently addressed by Table 1.4 of Finance Board regulation 12 CFR 932.4, which are cash, premises, and plant and equipment, as well as certain investments described in the core mission activities regulation. Under the proposed rule the credit risk capital charges for "non-rated assets" would derive from proposed Table 1.3, which would be identical to Table 1.4 of the current regulation, both in terms of the assets covered by the table and the capital charges assigned to each category of assets within the table.

The proposed rule would define the term "non-mortgage asset" to include any assets held by a Bank other than advances covered by Table 1.1, all types of mortgage-related assets covered by Table 1.4, non-rated assets covered by Table 1.3, or derivatives contracts. As is discussed in much greater detail below, capital charges for "non-mortgage assets" would be calculated based on their stated maturity and a Bank's internal credit rating for the assets, using new proposed Table 1.2. The

charges for all types of residential mortgage assets also would be calculated based on the Bank's internal rating of those assets, rather than a rating from an NRSRO, but the credit risk percentage requirements will remain the same as in the current regulation.

The proposed rule also would add a definition for "eligible master netting agreement." FHFA would define the term by reference to the definition for the term recently adopted in the FHFA rule governing margin and capital requirements for covered swap entities.<sup>24</sup> The term "eligible master netting agreement" would replace the references and definition of "qualifying bilateral netting contract" now found in the credit risk capital provision and would be relevant to how a Bank calculates its credit exposures under multiple derivatives contracts with a single party. As discussed more fully later, the current credit exposures arising from derivatives contracts with a single counterparty and subject to an eligible master netting agreement would be calculated on a net basis, in accordance with proposed § 1277.4(j)(1)(ii). Lastly, the proposed rule would revise the existing Finance Board definition of "operations risk" by changing it to "operational risk" and incorporating the definition of operational risk currently used in FHFA Advisory Bulletin AB-2014-02 (February 18, 2014).

#### Proposed § 1277.2 and § 1277.3—Total Capital and Risk-Based Capital Requirements

As noted above, FHFA proposes to re-adopt current § 932.2 and § 932.3 of the Finance Board regulations as § 1277.2 and § 1277.3 without change. Proposed § 1277.2 is identical to the existing regulation and would set forth the minimum total capital and leverage ratios that each Bank must maintain under section 6(a)(2) of the Bank Act.<sup>25</sup> Proposed § 1277.3 also is identical to the existing regulation, apart from cross-references to other regulations, and would set forth a Bank's risk-based capital requirement and require a Bank to hold at all times an amount of permanent capital equal to at least the sum of its credit risk, market risk and

operational risk capital requirements.<sup>26</sup> In turn, proposed §§ 1277.4, 1277.5, and 1277.6 would establish, respectively, the requirements for calculating a Bank's credit risk, market risk, and operational risk capital charges, as described below.

#### Proposed § 1277.4—Credit Risk Capital Requirements

FHFA is proposing changes to the current credit risk capital provision, now set forth at 12 CFR 932.4 of the Finance Board regulations. The principal revisions include changing how a Bank determines the CRPRs used to calculate capital charges for its internally rated non-mortgage assets, derivatives contracts, and off-balance sheet items (under proposed Table 1.2), and for its residential mortgage assets (under proposed Table 1.4). In both cases, a Bank would no longer base the charge on an NRSRO credit rating, but on a credit rating that the Bank calculates internally. The proposal also would update the CRPRs used to calculate the applicable capital charges for advances and non-mortgage assets, and would change the frequency of a Bank's calculation of its credit risk capital charges from monthly to quarterly.<sup>27</sup> Finally, as discussed in more detail below, FHFA is also proposing a number of other changes to the current regulation.

*General.* Similar to the current regulation, proposed § 1277.4(a) would provide that a Bank's credit risk capital requirement equal the sum of the individual credit risk capital charges for its advances, residential mortgage assets, non-mortgage assets, off-balance sheet items, derivatives contracts, and non-rated assets. Proposed § 1277.4(b) through (e) would set forth the general approach for calculating the credit risk capital charges, respectively, for: Residential mortgage assets; advances, non-mortgage assets, and non-rated assets; off-balance sheet items; and derivatives contracts. The calculation of capital charges for residential mortgage assets is discussed below in the section

entitled *Credit Risk Charge for Residential Mortgage Assets*.

*Valuation of Assets.* For all assets, § 1277.4(c) of the proposed rule generally would require that a Bank determine the capital charge by multiplying the amortized cost of the asset by the CRPR assigned to the asset under the appropriate table. The proposed rule includes an exception to this general approach, which would apply for any asset carried at fair value for which the Bank recognizes the change in that asset's fair value in income. For these assets, the capital charge would equal the fair value of the asset multiplied by the applicable CRPR. The proposed wording represents a change from the current regulation, which bases the capital charge for on-balance sheet assets on the asset's book value. FHFA is proposing this change to provide greater clarity and alignment with the intent of the rule, as amortized cost and fair value are the current financial instrument recognition and measurement attributes used in relevant accounting guidance.

*Charge for Off-Balance Sheet Items.* Section 1277.4(d) of the proposed rule would carry over the language from the existing Finance Board regulations regarding the capital charges for off-balance sheet items without change. Thus, the capital charge for such items would equal the credit equivalent amount of the item multiplied by the CRPR assigned to the asset by Table 1.2 of proposed § 1277.4(f)(1). A Bank would calculate the credit equivalent amount for any off-balance sheet item pursuant to proposed § 1277.4(h), which would allow a Bank to calculate the credit equivalent amount by using either an FHFA-approved model or the proposed conversion factors set forth in Table 2. The proposed conversion factors are the same as those in the current regulation. Proposed § 1277.4(d) would retain the existing exception provided by the current regulation for standby letters of credit, under which the CRPR would be the same as that established under Table 1.1 for an advance with the same remaining maturity as the standby letter of credit. A Bank would still need to calculate the credit equivalent amount for the letter of credit pursuant to proposed § 1277.4(h).<sup>28</sup>

Proposed § 1277.4(h), which addresses the calculation of credit equivalent amounts and is substantively the same as § 932.4(f) of the Finance

<sup>24</sup> See, Final Rule: Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (hereinafter, Final Uncleared Swaps Rule). The specific definition is found at 12 CFR 1221.2. FHFA does not propose to carry over the current definition for "walkaway clause" in current 12 CFR 930.1 as the proposed definition of "eligible master netting agreement" already would sufficiently describe a walkaway clause.

<sup>25</sup> 12 U.S.C. 1426(a)(2).

<sup>26</sup> FHFA believes that this approach remains consistent with the amendments made by HERA to the risk-based capital requirements in the Bank Act. As amended, the Bank Act provides the Director with broad authority to establish by regulation risk-based capital standards for the Banks that ensure the Banks operate in a safe and sound manner with sufficient permanent capital and reserves to support the risks arising from their operations. See 12 U.S.C. 1426(a)(3)(A).

<sup>27</sup> FHFA also is proposing a similar conforming change for the frequency of the calculation of the market risk capital charge. As a result, under the proposed rule, Banks would re-calculate their risk-based capital requirement quarterly, rather than monthly as under the current regulation.

<sup>28</sup> Under proposed Table 2, the credit equivalent amount of any letter of credit would equal the face amount of the letter of credit multiplied by 0.5 (i.e., a credit conversion factor of 50 percent).

Board regulation, would carry over the treatment for certain off-balance sheet commitments that otherwise would be subject to a credit conversion factor of 20 percent or 50 percent. If such commitments are unconditionally cancelable or effectively provide for cancellation upon deterioration in the borrowers' creditworthiness, then the credit conversion factor would be zero, and no credit risk capital charge would apply to those items.

*Derivatives Contracts.* Proposed § 1277.4(e) would establish the general requirements for calculating credit risk capital charges for derivatives contracts. The proposed rule would make a number of changes to the current regulation's treatment of derivatives. These changes reflect developments in derivatives regulations brought about by the Dodd-Frank Act, including the clearing requirement for many standardized over-the-counter (OTC) derivatives contracts and the adoption by FHFA, jointly with other federal regulators, of the Final Rule on Margin and Capital Requirements for covered Swap Entities, which established margin and capital requirements for uncleared swap contracts. The proposed rule also would eliminate the provision from the current regulation that provides special treatment for derivatives with members so that derivatives contracts with members would receive the same treatment as derivatives contracts with non-members. Section 1277.4(e)(4)(i) of the proposed rule, however, would retain the exception in the current regulation that assigns a capital charge of zero to any foreign exchange rate contract (other than gold contracts) that has a maturity of 14 days or less.

First, the proposed rule would add a credit risk capital charge for all cleared derivatives contracts, including exchange-traded futures contracts. Under the current regulation, cleared derivatives contracts have a charge of zero. However, when the Finance Board adopted the current regulation, the only cleared derivatives contracts used by the Banks were exchange-traded futures contracts, and the Banks did not commonly use futures. Given the Dodd-Frank Act clearing requirements, Banks will now clear a significant percentage of their OTC derivatives contracts.<sup>29</sup> Thus, FHFA finds it reasonable to apply a capital charge to such contracts. The credit risk capital charge for cleared derivatives under the proposed rule also

<sup>29</sup> Because a futures contract is a cleared derivatives contract, the change in the proposed rule with regard to capital charges for cleared derivatives contracts would also apply to futures contracts.

would take account of the fact that the amount of collateral a Bank must post to a derivatives clearing organization will exceed, at most times, the Bank's current obligation to the clearing organization, creating an exposure to potential loss of such excess collateral should the clearing organization fail. Capital rules adopted by federal banking regulators also instituted charges for collateral posted to the derivative counterparties, including derivative clearing organizations.

Specifically, § 1277.4(e)(4)(ii) of the proposed rule would impose a capital charge of 0.16 percent times the sum of a Bank's marked-to-market exposure on the cleared derivatives contract,<sup>30</sup> plus its potential future exposure on the contract, plus the amount of any collateral posted by the Bank and held by the clearing organization that exceeds the amount of the Bank's current obligation to the clearing organization under the contract. The charge in the proposed rule for cleared derivatives contracts is consistent with the minimum total capital charge that would be applicable to cleared derivatives contracts under the standardized approach in the capital rules adopted by federal banking regulators.<sup>31</sup>

For uncleared derivatives contracts, the proposed rule would carry over much of the approach in the current regulation, in that a Bank's charge for a derivatives contract would equal the sum of the Bank's current credit exposure and potential future credit exposure under the derivatives contract, multiplied by the applicable CRPR assigned to the derivatives counterparty under Table 1.2 of proposed § 1277.4(f). As under the current regulation, the proposed rule would deem that for purposes of calculating the charge on the current credit exposure the CRPR should be that associated with an asset with a maturity of one year or less and the Bank's internal rating for the derivatives counterparty. The calculation of the charge for the potential future exposure would be based on the CRPR associated with the maturity category equal to the remaining maturity of the derivatives contract.

The proposed rule, however, also would add to the above amounts an additional credit risk charge for the

<sup>30</sup> Given that most clearing organizations effectively settle a cleared derivatives contract at the end of the day, the current exposure would often be zero or a small amount depending on the timing of the daily settlement.

<sup>31</sup> FHFA, however, has not adjusted the charge to account for any additional capital amounts needed to comply with the capital conservation buffer under the federal banking regulators' rules.

amount of collateral posted to a counterparty that exceeds the Bank's current, marked-to-market obligation to that counterparty under the derivatives contract.<sup>32</sup> The Bank would calculate the specific charge for the posted excess collateral based on a CRPR related to the Bank's internal rating for the custodian or other party holding such collateral and an applicable maturity deemed to be one year or less. The added charge would account for the possibility that the party holding the collateral may fail, and the Bank may not be able to recover its excess collateral. Capital rules issued by banking regulators also apply a capital charge for collateral posted to a third-party for uncleared derivatives contracts.

The proposed rule would allow the Bank to reduce its credit risk capital charge for derivatives contracts based on collateral posted by the counterparty, but only if the Bank's treatment of collateral posted under the derivatives contract complies with proposed § 1277.4(e)(3). That provision would first require the Bank to hold such collateral itself or in a segregated account consistent with requirements in the uncleared swaps margin and capital rule.<sup>33</sup> The proposed rule also requires a Bank to apply the minimum discounts set forth in the uncleared swaps margin and capital rule to any collateral that is eligible for posting under that rule.<sup>34</sup> The proposed rule, however, would not limit the collateral that a Bank may accept to that meeting the eligibility requirements of the uncleared swaps or margin rule, given that not all Bank derivative counterparties would be subject to these requirements.<sup>35</sup> This is

<sup>32</sup> Generally, this amount should equal the initial margin that a Bank would post under its derivatives contracts with a particular counterparty. Any amounts paid by a Bank to a derivatives clearing organization with respect to an end-of-day-settlement would not be considered collateral held by the clearing organization for purposes of applying any capital charge. Thus, the capital charge would be the sum of the current credit exposure, the potential future credit exposure, and the exposure related to the amount of collateral that exceeds the Bank's current exposure.

<sup>33</sup> See 12 CFR 1221.7(c). The Bank, however, would have to substitute the credit risk capital charge associated with the collateral for that of the derivatives contract. The proposed rule would also allow a Bank to base the calculation of the capital charge on the CRPR applicable to a third-party guarantor that unconditionally guarantees a Bank's counterparty's obligations under a derivatives contract, rather than on the requirement applicable to the counterparty.

<sup>34</sup> See, 12 CFR part 1221, Appendix B.

<sup>35</sup> Thus, under the proposed rule, the Bank would need to apply at least the minimum discount listed in Appendix B of the margin and capital rule for uncleared swaps to any collateral listed in that Appendix but would apply a suitable discount determined by the Bank based on appropriate

a change from the current regulation, which allows Banks to take account of collateral held against derivatives exposures if a member or affiliate of the member holds the collateral. The current regulation also does not impose specific minimum discounts on any type of collateral but allows a Bank to determine a suitable discount. The proposed rule would carry over requirements from the current regulation that any collateral be legally available to the Bank to absorb losses and be of readily determinable value at which it can be liquidated.

The proposed rule would assure that minimum standards apply before a Bank can reduce its derivatives credit risk capital charge based on the protection offered by collateral. The changes in the proposed rule would impose slightly higher collateral standards than under the current regulation, but would be consistent with the move toward stricter requirements for derivatives that has followed the recent financial crisis.<sup>36</sup>

Proposed § 1277.4(i) would specify the method for calculating the current and potential future credit exposures under a derivatives contract. The proposed rule would require a Bank to calculate the current credit exposure in the same way as under the current regulation. Specifically, the current credit exposure would equal the marked-to-market value if that value is positive and would be zero if that value were zero or negative. The proposed rule would allow a Bank to calculate the current credit exposure for all derivatives contracts subject to an “eligible master netting agreement” on a net basis. As discussed previously, FHFA proposes to align the definition of “eligible master netting agreement” with that in the recently-adopted margin and capital rule for uncleared swaps.

This section of the proposed rule would provide a Bank the option of calculating the potential future credit exposure by using an initial margin model approved for use by the Bank by FHFA under § 1221.8 of the margin and capital rules for uncleared swaps, or that has been approved by another regulator for use by the Bank’s counterparty under standards similar to those in § 1221.8, or by using the standard calculation set forth in

assumptions about price risk and liquidation costs to collateral not listed in Appendix B.

<sup>36</sup> For any derivatives transactions with swap dealers or major swap participants, the Bank would already have to meet these higher collateral standards under applicable uncleared swaps margin and capital rules, and thus, the proposed change should not affect transactions with these types of counterparties.

Appendix A of the part 1221 rules.<sup>37</sup> Thus, a Bank can rely on the initial margin calculation done by a swap dealer or other counterparty that uses a model approved by the CFTC, other federal banking regulator, or a foreign regulator whose model rules have been found to be comparable to the United States rules.<sup>38</sup> If neither the Bank nor the Bank’s counterparty uses an approved model to calculate initial margin amounts, or if the Bank otherwise chooses, the proposed rule would allow the Bank to calculate the potential future exposure using the method set forth in Appendix A to the margin and capital rules for uncleared swaps. The conversion factors and the calculation of relevant potential future credit exposures for derivatives contracts, including the net potential future credit exposure for derivatives subject to an “eligible master netting agreement,” set forth under Appendix A to the margin and capital rules for uncleared swaps, are very similar to the requirements in the current Bank capital regulations for calculating potential future credit exposures on derivatives contracts.<sup>39</sup>

*Determination of credit risk percentage requirements.* Proposed § 1221.4(f) sets forth the method and criteria by which a Bank would determine the CRPR that it would use to calculate the credit risk capital charges for all of its assets, derivatives contracts, and off-balance sheet items. The applicable CRPRs would be set forth in four separate tables. Table 1.1 would apply for advances. Table 1.2 would apply for internally rated non-mortgage assets, derivatives contracts, and off-balance sheet items. Proposed Table 1.3 would apply for non-rated assets, which are cash, premises, plant and equipment, and certain specific investments. Proposed Table 1.4 would apply for residential mortgages, residential mortgage securities, and collateralized mortgage obligations. Each table is described below.

*CRPRs for Advances: Proposed Table 1.1.* The proposed rule would carry over the existing Table 1.1, which sets forth the CRPRs for advances. The proposed rule would maintain the same four maturity categories for advances as in the current regulation, but would

<sup>37</sup> See 12 CFR 1221.8 and 12 CFR part 1221, Appendix A. As no Bank is currently a swap dealer or major swap participant that otherwise needs to develop an initial margin model, FHFA expects that the Banks would generally rely on the calculations done by a counterparty using its approved model or using Appendix A to the part 1221 rules.

<sup>38</sup> See 12 CFR 1221.9.

<sup>39</sup> See Final Rule on Margin and Capital Requirements for Covered Swap Entities, 80 FR 74881–882.

slightly increase the CRPRs for each maturity category. A comparison of the proposed and current CRPRs for advances follows:

Maturity of advances	Percentage applicable to advances (proposed)	Percentage applicable to advances (current)
Remaining maturity ≤4 years	0.09	0.07
Remaining maturity >4 years to 7 years .....	0.23	0.20
Remaining maturity >7 years to 10 years ....	0.35	0.30
Remaining maturity >10 years .....	0.51	0.35

The fact that a Bank has never experienced a loss on an advance to a member institution creates challenges in identifying proper CRPRs for advances. When the Finance Board first developed the risk-based capital rule, it determined that appropriate requirements for advances should be greater than zero but less than the requirements for assets of the highest investment grade. Consequently, the Finance Board set the CRPRs for advances within those bounds by using the estimated default rate of assets of the highest investment grade and then applying a loss-given-default rate (LGD) of 10 percent, a much lower rate than the 100 percent LGD rate applied to other assets. The Finance Board justified the low LGD for advances by noting the over-collateralization provided for advances and other protections afforded advances under the Bank Act and Finance Board rules. The Finance Board also adjusted downward the CRPRs for advances for the two longest maturity categories in Table 1.1 to ensure those advances requirements would not exceed the CRPRs for mortgage assets of a similar maturity (as listed in current Table 1.2). It adjusted upward the CRPRs for the shortest maturity category because as calculated, the requirement for advances with a maturity of four years or less would have been zero.<sup>40</sup>

FHFA based the proposed new CRPRs for advances on the same concepts used by the Finance Board, but without any adjustments to the resulting percentage requirements. As discussed below, the proposed rule uses the same default rates for setting the CRPRs for advances as the revised default rate used to calculate the CRPRs for non-mortgage assets of the highest investment category. The proposed rule would

<sup>40</sup> See Final Finance Board Bank Capital Rule, 66 FR at 8284–85.

apply an LGD of 10 percent, the same rate used under the current regulation, to calculate the CRPRs for advances. Unlike the current regulation, however, the proposed rule would not adjust the calculated CRPR for the longer maturity categories, and it would use the calculated requirement for the shortest maturity category.<sup>41</sup>

Under the proposal, the total capital charges for advances would rise slightly compared to the current regulation. For example, as of year-end 2016, the proposed CRPRs would result in an increased credit risk charge for advances, although the dollar amount of the change would not be significant given the Banks' overall level of capitalization. Specifically, the aggregate credit risk capital charges for System-wide advances would increase from approximately 0.071 percent of the Banks' total assets to approximately 0.087 percent of total assets—an increase in dollar terms from \$749 million to approximately \$920 million. To put this increase in perspective, System-wide permanent capital available to meet the risk-based capital requirements exceeded \$54 billion in the fourth quarter of 2016. Further, given that advances represented over 66 percent of the Bank System's total assets as of year-end 2016, the absolute amount of credit risk capital charge required for advances under the proposed rule would remain modest and in keeping with the very low risk posed by advances.

*CRPRs for Internally Rated Assets:* Proposed Table 1.2. Proposed Table 1.2 would replace Table 1.3 from the current regulation, and would set forth the CRPRs to be used to calculate the capital charges for internally rated non-mortgage assets, off-balance sheet items, and derivatives contracts.<sup>42</sup> The current regulation assigns CRPRs for these assets, items, and contracts by use of a look-up table that delineates the CRPRs by NRSRO rating and maturity range. The proposed rule would retain the simplicity of this approach, but would replace the NRSRO rating categories with FHFA Credit Ratings categories. Specifically, proposed Table 1.2 would establish the CRPRs by using seven separate "FHFA Credit Rating" categories, each of which would be subdivided into five maturity categories. The maturity categories in proposed Table 1.2 would remain the same as those in current Table 1.3. The FHFA

Credit Ratings categories are intended to achieve the same purpose served by the NRSRO credit ratings in the current regulation, which is to create a hierarchy of credit risk exposure categories, to which a Bank would assign each of the assets, items, and contracts covered by proposed Table 1.2. The FHFA Credit Ratings categories, like the NRSRO ratings categories that they replace, would base the relative creditworthiness of each category on historical loss experience. Thus, current Table 1.3 and proposed Table 1.2 both contain CRPRs structured to correspond to the historical loss experience of financial instruments, categorized by NRSRO ratings. Accordingly, the historical loss experience for the "highest investment grade" category in current Table 1.3 would correspond to the historical loss experience for the FHFA 1 Credit Rating category in proposed Table 1.2, and so on. To provide some guidance to the Banks about the breadth of these categories, the rule would make clear that each of the FHFA 1 through 4 categories would be generally comparable to the credit risk associated with items that could qualify as "investment quality," as that term is defined in FHFA's investment regulation.<sup>43</sup> For example, a rating of FHFA 1 would suggest the highest credit quality and the lowest level of credit risk; FHFA 2 would suggest high quality and a very low level of credit risk; and FHFA 3 would suggest an upper-medium level of credit quality and low credit risk. FHFA 4 would suggest medium quality and moderate credit risk. Categories FHFA 5 through 7 would include assets and items that have risk characteristics that are comparable to instruments that could not qualify as "investment quality" under the FHFA investment regulation.

The proposed rule, however, differs from the current regulation by requiring the Bank to determine the appropriate FHFA Credit Rating category for each instrument covered by proposed Table 1.2. The Bank would do so by conducting its own internal calculation of a credit rating for that instrument, rather than assigning it a CRPR based on an NRSRO rating. Thus, each Bank also would need to establish a mapping of its internal credit ratings to the various FHFA Credit Rating categories in

proposed Table 1.2. Given the similarity in structure and basis between proposed Table 1.2 and current Table 1.3, and the historical data connection of both tables to historical loss rates, as experienced by financial instruments categorized by the NRSRO ratings, the Banks should be able to map their internal credit ratings to the appropriate categories in proposed Table 1.2 in a straightforward manner. Because the proposed rule would rely on a Bank's internal credit ratings and its mapping of those ratings to the appropriate FHFA Credit Rating category, it is possible that the CRPR for a particular instrument or counterparty determined under the proposed rule would differ from the CRPR that is assigned under the current regulations.

As discussed above, the proposed rule would require the Banks to develop a method for assigning a rating to a counterparty or instrument and then map that rating to an FHFA Credit Rating category. The proposed rule would not require a Bank to obtain FHFA approval of either its method of calculating the internal credit rating or of its mapping of such ratings to the FHFA Credit Ratings categories. Instead, the proposed rule would specify that a Bank's rating method must involve an evaluation of counterparty or asset risk factors, which may include measures of the counterparty's scale, earnings, liquidity, asset quality, and capital adequacy, and could incorporate, but not rely solely upon, credit ratings available from an NRSRO or other sources.

FHFA intends to rely on the examination process to review the Banks' internal rating methodologies and mapping processes. FHFA finds that approach appropriate because the Banks have been using internal rating methodologies for some time, and any adjustments to those methodologies that FHFA may direct a Bank to undertake in the future based on its supervisory review would not likely have a material effect on a Bank's overall credit risk capital requirement. That said, the proposed rule also includes a provision that would allow FHFA, on a case-by-case basis, to direct a Bank to change the calculated credit risk capital charge for any non-mortgage asset, off-balance sheet item, or derivatives contract, as necessary to remedy for any deficiency that FHFA identifies with respect to a Bank's internal credit rating methodology for such instruments.

*Calculation of Proposed Table 1.2 CRPRs.* To generate the CRPRs in proposed Table 1.2, FHFA updated both the data and the methodology that the Finance Board had used to develop the CRPRs in current Table 1.3. As a result,

<sup>41</sup> The proposed CRPR for the shortest maturity category is not zero as calculated because it is based on default data that was updated from what the Finance Board used for the current regulation.

<sup>42</sup> See 12 CFR 932.4.

<sup>43</sup> 12 CFR part 1267.1. Generally speaking, the term "investment quality" includes those instruments for which a Bank has determined that full and timely payment of principal and interest is expected, and that there is minimal risk that the timely payment of principal or interest will not occur because of adverse changes in economic and financial conditions during the life of the instrument.

the requirements in proposed Table 1.2 differ from, and in most cases are higher than, those in current Table 1.3. FHFA derived the CRPRs in proposed Table 1.2 using a modified version of the Basel internal ratings-based (IRB) credit risk model.<sup>44</sup>

Both the previous Finance Board approach underlying current Table 1.3 and the current Basel credit risk model use historical default data to determine a distribution of potential default rates, and then identify a stress level of default consistent with a selected confidence level of the default rate distribution. The prior Finance Board approach differs from the Basel credit risk model in the methods used to identify both the mean and variance of the default rate distribution. The prior Finance Board approach relied on a number of key assumptions arrived at judgmentally, whereas the later-developed Basel credit risk model relies on a sound and internally consistent theoretical construct. Thus, the Basel credit risk model represents a more sound and consistent approach than the Finance Board approach.

The application of the Basel credit risk model has two key data inputs—probability of default (PD) and LGD, grouped by segments that have homogeneous risk characteristics. To ensure consistent determinations of PDs and LGDs for the CRPR calculation, FHFA selected the PDs and LGDs from historical cumulative corporate default data. FHFA selected PDs from a sample period of 1970–2005 and grouped them by asset credit quality and maturity categories.<sup>45</sup> These data represent the closest data in terms of risk characteristics to the variety of exposures held by the Banks that would be subject to proposed Table 1.2.

The corporate default data that FHFA used to set PDs came from Moody's Investor Service. The Moody's data are very similar to historically comparable data provided by other rating agencies. More recent default rate data were available, but any data set that included the period post 2006 would reflect the abnormally high default rates that occurred during the recent financial crisis, and represent an exceptionally stressful period. Including the more recent data as an input to the Basel credit risk model would result in overstating required capital.<sup>46</sup> The Basel

<sup>44</sup> The FDIC used this model for calculating risk weights in its advanced IRB approach for addressing Risk-Weighted Assets for General Credit Risk. See 12 CFR part 324, subpart E.

<sup>45</sup> To generate current Table 1.3, the Finance Board used similar data covering 1970–2000.

<sup>46</sup> See An Explanatory Note on the Basel II IRB Risk Weight Functions, July 2005, Bank for

model requires use of “average” PDs that reflect expected default rates under normal business conditions and mathematically converts the average PDs to the equivalent of stressed PDs for a given confidence level (selected at 99.9 percent) as applied to an assumed normal distribution of default rates.

The Basel credit risk model requires already stressed LGDs as inputs. FHFA used the same LGD for all PD categories, and arrived at a stressed LGD by examining Moody's recovery rate (one minus LGD) data from 1982 through 2011. The recovery rates were measured based on 30-day post-default trading prices.<sup>47</sup> The data indicated the highest actual annual LGD was nearly 80 percent, but annual LGD rates reached this level just twice in 30 years. A more commonly observed stress level of LGD is about 65 percent, which occurred nearly nine times during that period. Hence, FHFA selected an LGD of 65 percent as an input to the Basel credit risk model.

The Basel II IRB application of the Basel credit risk model uses a confidence level or severity of the imposed stress of 99.9 percent.<sup>48</sup> FHFA also concluded that 99.9 percent is an appropriate confidence level, after comparing the Basel model calculated default rates, which are based on stressed PD rates, to actual default history. FHFA found that across all ratings, the calculated default rates at the 99.9 percent confidence level were equal to or greater than annual issuer-weighted (and withdrawal adjusted)<sup>49</sup> corporate default rates observed for all years since the Great Depression, with one exception.<sup>50</sup> Thus, FHFA proposes

International Settlements, page 5. Dr. Donald R. van Deventer (Chairman and CEO of Kamakura Corporation, a financial risk management firm) points to rapidly rising default rates following the peak of the 2007–2010 financial crises and warns that these high recent rates will not meet the standards required for application of the credit model under the new Basel Capital Accords in his March 15, 2009 blog, “The Ratings Chernobyl.” Moreover, even if FHFA had included some additional post-crisis years in the PD data set, the resulting refinements to the capital CRPRs would have been immaterial.

<sup>47</sup> This represents a commonly used market-based measure of recovery and was the only measure readily available in literature.

<sup>48</sup> The model adopted by the FDIC also uses a 99.9 percent confidence level.

<sup>49</sup> Issuer-weighted refers to default rates based on the proportion of issuers who defaulted, not the proportion of dollars issued that default. Withdrawal adjusted corrects the bias in the default rate that would otherwise result from the fact that some issuers are likely to disappear from the market and effectively default through means other than bankruptcy, e.g., being merged or acquired.

<sup>50</sup> The exception was for actual default rates observed in 1989 for double-A corporate bond issuers. The actual default rate was 0.627 and the calculated default rate was 0.570.

to adopt the 99.9 percent confidence level in implementing the credit risk model. However, FHFA proposes to use the version of the Basel model that accounts for both expected and unexpected loss, rather than the version that accounts only for unexpected loss. FHFA believes this choice is conservative, but may be of little consequence, as typically expected losses for Bank held instruments that are subject to Table 1.2 are minimal.

Updating the methodology behind proposed Table 1.2 would result in proposed CRPRs generally higher than current charges. Specifically, based on actual System-wide data for year-end 2016, the proposed new methodology would raise required credit risk capital, when compared to that calculated under the current regulation for non-advance, non-mortgage assets, from about 0.095 percent of assets to about 0.139 percent of assets, or by 47 percent.<sup>51</sup> The result reflects more the shortcomings with the prior methodology than any heightened concern about the credit quality of the assets or items subject to new Table 1.2. Overall, the increase under the proposed rule for the Bank System in total required risk-based capital related to credit risk charges for rated non-mortgage, non-advance assets would be from \$1.006 billion to about \$1.476 billion as of December 31, 2016, an increase of less than one percent of permanent capital as of that date.

*Proposed Table 1.3: Non-Rated Assets.* Proposed Table 1.3 would set forth the CRPRs for non-rated assets, which term would be defined to include each of the categories of assets currently included within Table 1.4 of the current credit risk capital rule—cash, premises, plant and equipment, and investments list in 12 CFR 1265.3(e) and(f). The proposed CRPRs for these items also would remain unchanged from the current regulation.<sup>52</sup>

*Reduced Charges for non-mortgage assets.* The rule would carry over in proposed § 1277.4(f)(2) the provisions from the current regulation that allow a Bank to substitute the CRPR associated with collateral posted for, or an unconditional guarantee of, performance under the terms of any non-mortgage asset. FHFA is not

<sup>51</sup> FHFA based this comparison on data provided in each Bank's 10-K filed with the SEC. FHFA did not include a Bank's derivatives holdings or off-balance sheet items in this calculation. FHFA, however, estimates that derivatives and off-balance sheet items account for less than 2 percent of the Banks' total credit risk capital charges, and therefore, believes the exclusion of these from the comparison calculation does not materially affect the conclusion drawn from the comparison.

<sup>52</sup> See, Final Finance Board Capital Rule, 66 FR at 8288–89.



proposing any substantive changes to the current provision, although, as already discussed above, FHFA is proposing to adopt different collateral standards applicable to derivatives contracts and to non-mortgage assets.<sup>53</sup>

Proposed § 1277.4(j) would carry over the special provisions for calculation of the capital charge on non-mortgage assets hedged with certain credit derivatives, if a Bank so chooses. The proposed provision would not alter the substance of the current provision as to the criteria that must be met for the special provision to apply or the method of calculating the capital charges.

Generally, under the proposed provision, a Bank would be able to substitute the capital charge associated with the credit derivatives (as calculated under proposed § 1277.4(e)) for all or a portion of the capital charge calculated for the non-mortgage assets, if the hedging relationships meet the criteria in the proposed provision.<sup>54</sup>

*Charge for Non-Mortgage-Related Obligations of the Enterprises.* Section 1277.4(f)(3) of the proposed rule would apply a capital charge of zero to any non-mortgage debt security or obligation issued by either of the Enterprises, but only if the Enterprise is operating with capital support or other form of direct financial assistance from the U.S. Government that would enable the Enterprise to repay those obligations. The financial support currently provided by the U.S. Department of the Treasury under the Senior Preferred Stock Purchase Agreements (PSPAs) would be included in this provision. FHFA believes a capital charge of zero for such obligations of the Enterprises is appropriate given the PSPAs and the financial support they provide for the Enterprises with regard to their ability to cover their obligations. Section 1277.4(g)(2) of the proposed rule provides the same treatment for mortgage-related assets that are guaranteed by the Enterprises. The proposed rule would require that the Banks treat obligations issued by other GSEs, including debt obligations of the Banks, the same as other investments in calculating the capital charges.

Therefore, each Bank must determine an FHFA Credit Rating for the GSE obligations, based on its internal credit ratings, and then use Table 1.2 to calculate the appropriate credit risk capital charge.

*Credit Risk Charge for Residential Mortgage Assets.* Section 1277.4(g)(1) of the proposed rule would establish a capital charge for residential mortgage assets that would be equal to the amortized cost of the asset multiplied by the CRPR assigned to the asset under Table 1.4 of proposed § 1277.4(g). The proposed rule would include an exception to this approach for any residential mortgage asset carried at fair value where the Bank recognizes the change in that asset's fair value in income. For these residential mortgage assets, the capital charge would be based on the fair value of the asset, which would be multiplied by the applicable CRPR. This fair value provision is the same as that to be used when calculating the CRPRs for assets, items, and contracts subject to Table 1.2, and represents a change from the current regulation, which bases the capital charge for on-balance sheet assets on the asset's book value.

Proposed Table 1.4 would replace Table 1.2 from the current regulation, and would set forth the CRPRs to be used to calculate the capital charges for three categories of internally rated residential mortgage assets—residential mortgages, residential mortgage securities, and collateralized mortgage obligations—each of which would be a defined term under the proposed rule. The current regulation assigns CRPRs for these assets by use of a look-up table that delineates the CRPRs by NRSRO rating and residential mortgage asset type. The proposed rule would retain this approach, but would replace the NRSRO rating categories with FHFA Credit Ratings categories. Proposed Table 1.4 would include seven categories of FHFA Credit Ratings labeled “FHFA RMA 1 through 7,” which categories would apply to residential mortgages and residential mortgage securities. Table 1.4 would include seven other categories, which would be labeled “FHFA CMO 1 through 7,” which categories would apply only to collateralized mortgage obligations. As described previously, the term “residential mortgage securities” would include only those instruments that represent an undivided ownership interest in a pool of residential mortgage loans, *i.e.*, instruments that are structured as pass-through securities. The term “collateralized mortgage obligation” would include those mortgage-related

instruments that are structured as something other than a pass-through security, *i.e.*, an instrument that is backed or collateralized by residential mortgages or residential mortgage securities, but that include two or more tranches or classes. FHFA also is proposing to replace the subheading within the existing Table 1.2 that refers to “subordinated classes of mortgage assets” with the newly defined term “collateralized mortgage obligations.” The intent of this revision is to avoid any ambiguity about the meaning of the term “subordinated classes,” as used in the current regulation. Under the proposed table, collateralized mortgage obligations in the two highest FHFA CMO credit rating categories would be assigned the same CRPR as mortgage-related securities in the two highest FHFA RMA categories. Collateralized mortgage obligations in lower FHFA CMO categories would be assigned higher CRPRs than those for mortgage-related securities, which reflects the different historical loss experience between the two types of instruments.

Proposed Table 1.4 would carry over all of the CRPRs from the existing Finance Board regulations without change. As under the current regulation, the credit risk associated with assets placed into proposed FHFA Credit Rating categories 1 through 4 in most cases would likely correspond to the credit risk that is associated with assets having an investment grade rating from an NRSRO. Thus, instruments assigned to the categories of FHFA RMA 1 or FHFA CMO 1 would suggest the highest credit quality and the lowest level of credit risk; categories FHFA RMA 2 or FHFA CMO 2 would suggest high quality and a very low level of credit risk; and categories FHFA RMA 3 or FHFA CMO 3 would suggest an upper-medium level of credit quality and low credit risk. Categories FHFA RMA 4 or FHFA CMO 4 would suggest medium quality and moderate credit risk. The proposed rule provides that all assets assigned to these four categories must have no greater level of credit risk than associated with investments that qualify as “AMA Investment Grade” under FHFA's AMA regulation,<sup>55</sup> in the case of RMAs, or as “investment quality” under FHFA's investment regulation,<sup>56</sup> in the case of CMOs. FHFA RMA or CMO categories of 5 through 7 would correspond to instruments that do not qualify as “AMA Investment Grade” or “investment quality” under FHFA's AMA or investment regulations, with

<sup>53</sup> As already noted, the proposed definition of non-mortgage asset specifically excludes derivatives contracts so the standards governing collateral posted for, or unconditional guarantees of, non-mortgage assets under proposed § 1277.4(f)(2) would not apply to derivatives contracts. The rule sets forth the collateral and third-party guarantee standards for derivatives contracts in proposed § 1277.4(e)(2), although the standards applicable to third-party guarantors are basically the same under both proposed § 1277.4(e)(2) and proposed § 1277.4(f)(2).

<sup>54</sup> See Final Finance Board Capital Rule, 66 FR at 8292–94.

<sup>55</sup> 12 CFR 1268.1

<sup>56</sup> 12 CFR 1267.1.



categories 6 and 7 having increasingly greater risk than category 5 of Table 1.4.

The proposed rule, however, would differ from the current regulation by requiring the Bank to assign each of its mortgage-related assets to the appropriate FHFA Credit Rating category based on the Bank's internal calculation of a credit rating for the asset, rather than on its NRSRO rating. The proposed rule follows the same approach as would be required for non-mortgage assets, off-balance sheet items, and derivatives contracts under Table 1.2, which requires that the Bank develop a methodology to assign an internal credit rating to each of its mortgage-related assets, and then align its various internal credit ratings to the appropriate FHFA Credit Rating categories in proposed Table 1.4. The Bank's methodology, as applied to residential mortgages, must involve an evaluation of the underlying loans and any credit enhancements or guarantees, as well as an assessment of the creditworthiness of the providers of any such enhancements or guarantees. As applied to residential mortgage securities and collateralized mortgage obligations, the Bank's methodology must involve an evaluation of the underlying mortgage collateral, the structure of the security, and any credit enhancements or guarantees, including the creditworthiness of the providers of such enhancements or guarantees. The Banks' methodologies may incorporate NRSRO credit ratings, provided that they do not rely solely on those ratings. Given that both proposed Table 1.4 and current Table 1.2 have the same structure and are based on historical loss rates, as experienced by financial instruments categorized by the NRSRO rating, the Banks should be able to map their internal credit ratings to proposed Table 1.4 in a straightforward manner. Because the Bank's internal credit ratings will determine the appropriate FHFA Credit Rating category for its residential mortgage assets, it is possible that the internally generated rating will differ from the NRSRO rating for a particular instrument, and that the CRPR assigned under the proposed rule would differ from that assigned under the current Finance Board regulations.

As is the case with respect to the methodology to be used in assigning internal credit ratings to the various FHFA Credit Ratings categories of Table 1.2, the proposed rule would not require a Bank to obtain prior FHFA approval of either its method of calculating the internal credit rating or of its mapping of such ratings to the FHFA Credit Rating categories. FHFA intends to rely on the examination process to review

the Banks' internal rating methodologies and mapping processes for these assets. As noted previously, the Banks have been using internal rating methodologies for some time, and any adjustments to those methodologies that FHFA may direct a Bank to undertake in the future based on its supervisory review would not likely have a material effect on a Bank's overall credit risk capital requirement. Nonetheless, the proposed rule would reserve to FHFA the right to require a Bank to change the calculated capital charges for residential mortgage assets to account for any deficiencies identified by FHFA with a Bank's internal residential mortgage asset credit rating methodology, which is identical to the provision relating to assets covered by Table 1.2.

The proposed rule includes two exceptions that provide for a capital charge of zero for two categories of mortgage assets. First, the proposed rule would apply a capital charge of zero to any residential mortgage, residential mortgage security, or collateralized mortgage obligation (or any portion thereof) that is guaranteed as to the payment of principal and interest by one of the Enterprises, but only if the Enterprise is operating with capital support or other form of direct financial assistance from the United States government that would enable the Enterprise to cover its guarantee. The financial support currently provided by the United States Department of the Treasury under the Senior Preferred Stock Purchase Agreements qualifies under this provision. This exception is identical in substance to proposed § 1277.4(f)(3), which pertains to non-mortgage-related debt instruments issued by an Enterprise. Second, the proposed rule would apply a capital charge of zero to any residential mortgage, residential mortgage security, or collateralized mortgage obligation that is guaranteed or insured by a United States government agency or department and is backed by the full faith and credit of the United States.

*Frequency of Calculation.* FHFA proposes to reduce the frequency with which a Bank would have to calculate its credit risk capital charges from monthly to quarterly. Thus, proposed § 1277.4(k) would require each Bank to calculate its credit risk capital requirement at least quarterly based on assets, off-balance sheet items, and derivatives contracts held as of the last business day of the immediately preceding calendar quarter, unless otherwise instructed by FHFA. The Bank would be expected to meet the calculated capital charge throughout the

quarter.<sup>57</sup> In the past, a Bank's total credit risk capital charge has not varied so greatly that the change in frequency should raise any safety or soundness concerns. FHFA, therefore, proposes to reduce the operational burdens on the Banks by reducing the frequency of calculation. The proposed rule would reserve FHFA's right to require more frequent calculations if it determined that particular circumstances warranted such a change.

#### Proposed § 1277.5—Market Risk Capital Requirement

FHFA proposes to readopt the existing market risk capital requirements with only the minor revisions described below.<sup>58</sup> The proposed rule would include a new provision, § 1277.5(d)(2), which would confirm that any market risk model or material adjustments to a model that FHFA or the Finance Board had previously approved remain valid unless FHFA affirmatively amends or revokes the prior approval. Section 1277.5(e) of the proposed rule also would change the frequency of a Bank's calculation date of its market risk capital requirement from monthly to quarterly so that it would correspond to the frequency of calculation for the Bank's credit risk capital requirement. Thus, each Bank would calculate its market risk capital requirement at least quarterly, based on assets held as of the last business day of the immediately preceding calendar quarter, unless otherwise instructed by FHFA. The Bank would be expected to meet the calculated capital charge throughout the quarter.

FHFA proposes to repeal the additional capital requirement that applies whenever a Bank's market value of capital is less than 85 percent of its book value of capital (85 Percent Test), which is located at 12 CFR 932.5 of the Finance Board regulations. This provision has become superfluous because FHFA can monitor a Bank's market value of capital and has other authority to impose additional capital requirements on a Bank if necessary.<sup>59</sup>

<sup>57</sup> For example, early in the second calendar-year quarter, a Bank would need to calculate its credit risk capital charge based on assets, off-balance sheet items, and derivatives contracts held as of the last business day of the first calendar-year quarter. The capital charge so calculated would apply for the whole of the second calendar-year quarter.

<sup>58</sup> FHFA believes the overall approach to market risk adopted by the Finance Board remains valid and continues to provide a reasonable estimate of a Bank's market risk exposure. See Final Finance Board Bank Capital Rule, 66 FR at 8294–99.

<sup>59</sup> See 12 U.S.C. 4612(c), (d), and (e); 12 CFR part 1225. The Director of FHFA has the authority to adopt regulations establishing a higher minimum

Hence, FHFA has no reason to retain the provision in the rule. Furthermore, as applied under the current regulation, the 85 Percent Test has proven to be both very pro-cyclical (requiring additional capital during a market downturn, when the Bank is least able to raise capital) and inflexible. FHFA can more effectively address a Bank under stress by considering a broader set of facts and measures prior to making any determination as to when and how much additional capital should be required. FHFA also has additional authority to deal with Banks that become undercapitalized, which the Finance Board did not possess when it adopted the 85 Percent Test.<sup>60</sup>

#### Proposed § 1277.6—Operational Risk Capital Requirement

FHFA proposes to carry over the current approach set forth in § 932.6 of the Finance Board regulations for calculating a Bank's operational risk capital requirement. As a consequence, proposed § 1277.6 provides that a Bank's operational risk capital requirement shall equal 30 percent of the sum of the Bank's credit risk and market capital requirements. The Finance Board originally based the requirement on a statutory requirement applicable to the Enterprises, noting that given the difficulties of empirically measuring operational risk, it was reasonable to rely on the statutorily mandated provisions for guidance.<sup>61</sup> Congress has since repealed the specific operational risk capital provision related to the Enterprises and replaced it with a provision giving the Director of FHFA broad authority to establish risk-based capital charges that ensure the Enterprises operate in a safe and sound manner and maintain sufficient capital and reserves against their risks.<sup>62</sup> Nevertheless, FHFA believes that the 30 percent operational risk charge has provided a reasonable capital cushion for the Banks against operational risk losses and has not proven excessively burdensome.

FHFA also proposes to carry forward the current provisions in the regulation that allows a Bank to reduce the operational risk charge to as low as 10 percent of the combined market and credit risk charges if the Bank presents

capital limit for the Banks, if necessary to ensure that they operate in safe and sound manner, as well as to order temporary increases in the minimum capital level for a particular Bank, and by order or regulation to establish such capital or reserve requirements with respect to any product or activity of a Bank.

<sup>60</sup> See 12 U.S.C. 4614, 4615, 4616, and 4617.

<sup>61</sup> See Final Finance Board Bank Capital Rule, 66 FR at 8299 (citing 12 U.S.C. 4611(c) (2000)).

<sup>62</sup> See 12 U.S.C. 4611(a).

an alternative methodology for assessing or quantifying operational risk that meets with FHFA's approval. The proposed rule also would retain the provision that allows a Bank, subject to FHFA approval, to reduce the operational risk charge to as low as 10 percent if the Bank obtains insurance against such risk. However, to be consistent with the Dodd-Frank Act, the proposed rule would replace the current requirement that any such insurer have a credit rating from an NRSRO no lower than the second highest investment category with a requirement that FHFA find the insurance provider acceptable.

#### Proposed § 1277.7—Limits on Unsecured Extensions of Credit; Reporting Requirements

With the exception of the revisions described below, FHFA proposes to carry over the substance of the current Finance Board regulations pertaining to a Bank's unsecured extensions of credit to a single counterparty or group of affiliated counterparties. Section 1277.7 of the proposed rule would include most of the provisions now found at 12 CFR 932.9 of the Finance Board regulations. The principal revision to the existing regulation would be to determine unsecured credit limits based on a Bank's internal credit rating for a particular counterparty and the corresponding FHFA Credit Rating category for such exposures, rather than on NRSRO credit ratings. This change would bring the rule into compliance with the Dodd-Frank Act mandate that agencies replace regulatory provisions that rely on NRSRO credit ratings with alternative standards to assess credit quality.

*FHFA Credit Ratings.* Under the proposed rule, a Bank would apply the unsecured credit limits based on the same FHFA Credit Ratings categories used in proposed Table 1.2 for determining CRPRs for non-mortgage assets, off-balance sheet items, and derivatives contracts. Thus, a Bank would develop a methodology for assigning an internal rating for each counterparty or obligation, and would align its various credit ratings to the appropriate FHFA Credit Rating categories for determining the applicable unsecured credit limit. The proposed amendments also would remove from the current regulation all distinctions between short- and long-term ratings. The Finance Board regulations distinguished between those ratings because the regulations relied on NRSRO ratings, and those distinctions have proven to create certain complications in applying and monitoring the regulation. Therefore,

under the proposed rule, a Bank would determine a single rating for a specific counterparty or obligation when applying the unsecured credit limits, regardless of the term of the underlying unsecured credit obligations. Because the proposed rule would require a Bank to use the same methodology to arrive at an internal credit rating, and to align to the FHFA Credit Rating categories as used under Table 1.2, the end result would be that a Bank would use the same FHFA Credit Rating category for a specific counterparty or obligation in calculating both the credit risk capital charge under proposed § 1277.4 and the unsecured credit limit under proposed § 1277.7.

*Limits on Exposure to a Single Counterparty.* As under the current regulation, the general limit on unsecured credit to a single counterparty would be calculated under the proposed rule by multiplying a percentage maximum capital exposure limit associated with a particular FHFA Credit Rating category by the lesser of either the Bank's total capital, or the counterparty's Tier 1 capital, or total capital, in each case as defined by the counterparty's primary regulator. In cases where the counterparty does not have a regulatory Tier 1 capital or total capital measure, the Bank would determine a similar capital measure to use, as under the current regulations.

Proposed Table 1 to § 1277.7 sets forth the applicable maximum capital exposure limits used to calculate the relevant unsecured credit limit. These limits are: (i) 15 percent for a counterparty determined to have an FHFA 1 rating; (ii) 14 percent for a counterparty with an FHFA 2 rating; (iii) nine percent for a counterparty with an FHFA 3 rating; (iv) three percent for a counterparty with an FHFA 4 rating; and (v) one percent for any counterparty rated FHFA 5 or lower. The numerical limits are the same as those in the current regulation, with the differences in proposed Table 1 to § 1277.7 being the use of the FHFA Credit Rating categories in place of the NRSRO ratings.<sup>63</sup> As part of its oversight of the Banks, FHFA monitors the role of the Banks in the unsecured credit markets and may propose additional amendments to these exposure limits if circumstances warrant.

As under the current regulation, the general unsecured credit limit, *i.e.*, the

<sup>63</sup> The Finance Board explained its reasons for setting these maximum capital exposure limits when it proposed the current unsecured credit regulation. See Proposed Rule: Unsecured Credit Limits for the Federal Home Loan Banks, 66 FR 41474, 41478–80 (Aug. 8, 2001) (hereinafter, Finance Board Proposed Unsecured Credit Rule).

appropriate percentage of the lesser of the Bank or counterparty's capital, would apply to all extensions of unsecured credit to a single counterparty that arise from a Bank's on- and off-balance sheet and derivatives transactions, other than sales of federal funds with a maturity of one day or less and sales of federal funds subject to continuing contract.<sup>64</sup> Similarly, the proposed rule would retain a separate overall limit, which would apply to all unsecured extensions of unsecured credit to a single counterparty that arise from a Bank's on- and off-balance sheet and derivatives transactions, but which would include sales of federal funds with a maturity of one day or less and sales of federal funds that are subject to a continuing contract. The amount of the overall limit would remain unchanged at twice the amount of the general limit.<sup>65</sup>

The proposed rule also would retain, with some revisions, the approach used by the current regulation with respect to NRSRO rating downgrades of a counterparty or obligation. The proposed rule would not use the term "downgrade" because that term is more appropriately associated with an action taken by a third-party ratings organization, such as an NRSRO. Instead, the proposed rule would provide that if a Bank revises its internal credit rating for a particular counterparty or obligation, it shall thereafter assign the counterparty or obligation to the appropriate FHFA Credit Rating category based on that revised internal rating. The proposed rule further provides that if the revised rating results in a lower FHFA Credit Rating category, then any subsequent extension of unsecured credit must comply with the new limit calculated using the lower credit rating. The proposed rule makes clear, however, that a Bank need not unwind any existing unsecured credit exposures as a result of the lower limit, provided they

were originated in compliance with the unsecured credit limits in effect at that time. The proposed rule would continue to consider any renewal of an existing unsecured extension of credit, including a decision not to terminate a sale of federal funds subject to a continuing contract, as a new transaction, which would be subject to the recalculated limit.

*Affiliated Counterparties.* The proposed rule would readopt without substantive change the current provision limiting a Bank's aggregate unsecured credit exposure to groups of affiliated counterparties. Thus, in addition to being subject to the limits on individual counterparties, a Bank's unsecured credit exposure from all sources, including federal funds transactions, to all affiliated counterparties under the proposed rule could not exceed 30 percent of the Bank's total capital. The proposed rule would also readopt the current definition of affiliated counterparty.

*State, Local, or Tribal Government Obligations.* The proposed rule also carries over without substantive change the special provision in the current regulation applicable to calculating limits for certain unsecured obligations issued by state, local, or tribal governmental agencies. This provision, which would be located at § 1277.7(a)(3), would allow the Banks to calculate the limit for these covered obligations based on Bank capital—rather than on the lesser of the Bank or counterparty's capital—and the rating assigned to the particular obligation. As under the current regulation, all obligations from the same issuer and having the same assigned rating may not exceed the limit associated with that rating, and the exposure from all obligations from that issuer cannot exceed the limit calculated for the highest rated obligation that a Bank actually has purchased. As explained by the Finance Board when it adopted the current regulation, this special provision reflected the fact that the state, local, or tribal agencies at issue often had low capital, their obligations had some backing from collateral but were not always fully secured in the traditional sense, and the Banks' purchase of these obligations had a mission nexus.<sup>66</sup>

*GSE Provision.* FHFA proposes to amend the special limit that the current regulation applies to GSEs. Specifically, proposed § 1277.7(c) would apply a special limit only if the GSE counterparty were operating with

capital support or other form of direct financial assistance from the U.S. government that would enable the GSE to repay its obligations. In such a case, the proposed rule would set the Bank's unsecured credit limit, including all federal funds transactions, at 100 percent of the Bank's capital. That limit is the same as the one that applies to the Banks' exposures to the Enterprises, as calculated under the current regulation pursuant to FHFA Regulatory Interpretation 2010-RI-05, which the proposed rule would codify into the regulations.<sup>67</sup> A Bank would calculate its unsecured credit limit for any other GSE (other than another Bank) that does not meet these criteria the same way that it would for any other counterparty.<sup>68</sup>

*Reporting.* Proposed § 1277.7(e) would carry over the provisions from the current regulation that require a Bank to report certain unsecured exposures and violations of the unsecured credit limits. FHFA would expect a Bank to make these reports in accordance with any instructions in FHFA Data Reporting Manual or in applicable related guidance issued by FHFA.<sup>69</sup>

*Calculation of Credit Exposures.* Proposed § 1277.7(f) would establish the requirements for measuring a Bank's unsecured extensions of credit. For on-balance sheet transactions, other than derivative transactions, the rule would provide that the unsecured extension of credit would equal the amortized cost of the transaction plus net payments due the Bank, subject to an exception for those transactions or obligations that the Bank carries at fair value where any change in fair value is recognized in income. For these items, the unsecured extension of credit would equal the fair value of the item. This approach is similar to the approach applied under proposed § 1277.4 for calculating credit risk capital charges for non-mortgage assets. FHFA believes that this approach best captures the amount that a Bank has at risk should a counterparty default

<sup>64</sup> The proposed rule would carry over the definition of "sales of federal funds subject to a continuing contract" from § 930.1 without change.

<sup>65</sup> The Finance Board explained its reasons for adopting a special limit for sales of federal funds with a maturity of one day or less and sales of federal funds subject to continuing contract when it adopted the current unsecured credit regulation. The Finance Board stated that Banks have financial incentives to lend into the federal funds markets, *i.e.*, the GSE funding advantage and fewer permissible investments than are available to commercial banks, and that permitting such lending without limits would be imprudent. See Final Rule: Unsecured Credit Limits for the Federal Home Loan Banks, 66 FR 66718, 66720-21 (Dec. 27, 2001) (hereinafter, Finance Board Final Unsecured Credit Rule). See also, Finance Board Proposed Unsecured Credit Rule, 66 FR at 41476.

<sup>66</sup> See Finance Board Final Unsecured Credit Rule, 66 FR at 66723-24.

<sup>67</sup> See <https://www.fhfa.gov/Supervision/Regulation/LegalDocuments/Documents/Regulatory-Interpretations/2010-RI-05.pdf>.

<sup>68</sup> This approach for GSEs is similar to the approach adopted jointly by FHFA and other prudential regulators in the margin and capital rules for uncleared swaps. In the margin and capital rules, agencies provide different treatment for collateral issued by a GSE operating with explicit United States government support from that issued by other GSEs. See, Final Rule: Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840, 74870-71 (Nov. 30, 2015).

<sup>69</sup> See, Advisory Bulletin: FHLBank Unsecured Credit Exposure Reporting, AB 2015-04 (July 1, 2015).

on any unsecured credit extended by the Bank.

For non-cleared derivatives transactions, the total unsecured credit exposure would equal the Bank's current and future potential credit exposures calculated in accordance with the proposed credit risk capital provision, plus the amount of any collateral posted by the Bank that exceeds the amount the Bank owes to its counterparty, but only to the extent such excess posted collateral is not held by a third-party custodian in accordance with FHFA's margin and capital rule for uncleared swaps.<sup>70</sup> Similar to determining a credit exposure for a derivatives contract under the credit risk capital provision, the Bank would not count as an unsecured extension of credit any portion of the current and future potential credit exposure that is covered by collateral posted by a counterparty and held by or on behalf of the Bank, so long as the collateral is held in accordance with the requirements in proposed § 1277.4(e)(2) and (e)(3).

For off-balance sheet items, the unsecured extension of credit would equal the credit equivalent amount for that item, calculated in accordance with proposed § 1277.4(g). As with the current regulation, proposed § 1277.7(f) also provides that any debt obligation or debt security (other than a mortgage-backed or other asset-backed security or acquired member asset) shall be considered an unsecured extension of credit. Also consistent with the current regulation, this provision provides an exception for any amount owed to the Bank under a debt obligation or debt security for which the Bank holds collateral consistent with the requirements of proposed § 1277.4(f)(2)(ii) or any other amount that FHFA determines on a case-by-case basis should not be considered an unsecured extension of credit.

*Exceptions to the unsecured credit limits.* Section 1277.7(g) of the proposed rule would include four separate exceptions to the regulatory limits on extensions of unsecured credit. Two of these exceptions, pertaining to obligations of or guaranteed by the U.S. and to extensions of credit from one Bank to another Bank, are being carried over without change from the current Finance Board regulations. The proposed rule would add a third

exception, which would apply to any derivatives transaction accepted for clearing by a derivatives clearing organization. FHFA proposes to exclude cleared derivatives transactions from the rule given the Dodd-Frank Act mandates that parties clear certain standardized derivatives transactions. When a Bank submits a derivatives contract for clearing, the derivatives clearing organization becomes the counterparty to the contract. Given that a limited number of derivatives clearing organizations, or in some cases only a single organization, may clear specific classes of contracts, imposing the unsecured limits on cleared derivatives contracts may make it difficult for the Banks to fulfill the legal requirement to clear these contracts and frustrate the intent of the Dodd-Frank Act. In addition, the derivatives clearing organizations are subject to comprehensive federal regulatory oversight including regulations designed to protect the customers that use the clearing services. Even though FHFA proposes to exclude cleared derivatives contracts from coverage under this rule, it would expect Banks to develop internal policies to address exposures to specific clearing organizations that take account of the Bank's specific derivatives activity and clearing options. The proposed rule would add a fourth exception, which would incorporate the substance of a Finance Board regulatory interpretation, 2002-RI-05, pertaining to certain obligations issued by state housing finance agencies. Under that provision, a bond issued by a state housing finance agency would not be subject to the unsecured credit limits if the Bank documents that the obligation principally secured by high-quality mortgage loans or mortgage-backed securities or by payments on such assets, is not a subordinated tranche of a bond issuance, and the Bank has determined that it has an internal credit rating of no lower than FHFA 2.

#### Proposed § 1277.8—Reporting Requirements

Proposed § 1277.8 provides that each Bank shall report information related to capital or other matters addressed by part 1277 in accordance with instructions provided in the Data Reporting Manual issued by FHFA, as amended from time to time.

#### IV. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of

1992 requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.<sup>71</sup> FHFA, in preparing this proposed rule, considered the differences between the Banks and the Enterprises as they relate to the above factors. FHFA requests comments from the public about whether these differences should result in any revisions to the proposed rule.

#### V. Paperwork Reduction Act

The proposed rule amendments do not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

#### VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act, and certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only to the Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

#### List of Subjects

12 CFR Parts 930 and 932

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

12 CFR Part 1277

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

Accordingly, for reasons stated in the Preamble, and under the authority of 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, 4612, FHFA

<sup>70</sup> See 12 CFR 1221.7(c) and (d). Thus, the amount of collateral that is posted by a Bank and is segregated with a third-party custodian consistent with the requirements of the swaps margin and capital rule would not be included in the Bank's unsecured credit exposure arising from a particular derivatives contract.

<sup>71</sup> See 12 U.S.C. 4513.

proposes to amend subchapter E of chapter IX and subchapter D of chapter XII of title 12 of the Code of Federal Regulations as follows:

**CHAPTER IX—FEDERAL HOUSING FINANCE BOARD**

**Subchapter E—[Removed and Reserved]**

■ 1. Subchapter E, consisting of parts 930 and 932 is removed and reserved.

**CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY**

**Subchapter D—Federal Home Loan Banks**

**PART 1277—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS, CAPITAL STOCK AND CAPITAL PLANS**

■ 2. The authority citation for part 1277 continues to read as follows:

**Authority:** 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, and 4612.

**Subpart A—Definitions**

■ 3. Amend § 1277.1 by adding in alphabetical order definitions for “affiliated counterparty,” “charges against the capital of a Bank,” “commitment to make an advance (or acquire a loan) subject to certain drawdown,” “collateralized mortgage obligation,” “credit derivative,” “credit risk,” “derivatives clearing organization,” “derivatives contract,” “eligible master netting agreement,” “exchange rate contracts,” “Government Sponsored Enterprise,” “interest rate contracts,” “market risk,” “market value at risk,” “non-mortgage asset,” “non-rated asset,” “operational risk,” “residential mortgage,” “residential mortgage security,” “sales of federal funds subject to a continuing contract,” and “total assets” to read as follows:

**§ 1277.1 Definitions.**

\* \* \* \* \*

*Affiliated counterparty* means a counterparty of a Bank that controls, is controlled by, or is under common control with another counterparty of the Bank. For the purposes of this definition only, direct or indirect ownership (including beneficial ownership) of more than 50 percent of the voting securities or voting interests of an entity constitutes control.

*Charges against the capital of the Bank* means an other than temporary decline in the Bank’s total equity that causes the value of total equity to fall below the Bank’s aggregate capital stock amount.

\* \* \* \* \*

*Collateralized mortgage obligation* means any instrument backed or

collateralized by residential mortgages or residential mortgage securities, that includes two or more tranches or classes, or is otherwise structured in any manner other than as a pass-through security.

*Commitment to make an advance (or acquire a loan) subject to certain drawdown* means a legally binding agreement that commits the Bank to make an advance or acquire a loan, at or by a specified future date.

\* \* \* \* \*

*Credit derivative* means a derivatives contract that transfers credit risk.

*Credit risk* means the risk that the market value, or estimated fair value if market value is not available, of an obligation will decline as a result of deterioration in creditworthiness.

*Derivatives clearing organization* means an organization that clears derivatives contracts and is registered with the Commodity Futures Trading Commission as a derivatives clearing organization pursuant to section 5b(a) of the Commodity Exchange Act of 1936 (7 U.S.C. 7a–1(a)), or that the Commodity Futures Trading Commission has exempted from registration by rule or order pursuant to section 5b(h) of the Commodity Exchange Act of 1936 (7 U.S.C. 7a–1(h)), or is registered with the SEC as a clearing agency pursuant to section 17A of the 1934 Act (15 U.S.C. 78q–1), or that the SEC has exempted from registration as a clearing agency under section 17A of the 1934 Act (15 U.S.C. 78q–1).

*Derivatives contract* means generally a financial contract the value of which is derived from the values of one or more underlying assets, reference rates, or indices of asset values, or credit-related events. Derivatives contracts include interest rate, foreign exchange rate, equity, precious metals, commodity, and credit contracts, and any other instruments that pose similar risks.

*Eligible master netting agreement* has the same meaning as set forth in § 1221.2 of this chapter.

*Exchange rate contracts* include cross-currency interest-rate swaps, forward foreign exchange rate contracts, currency options purchased, and any similar instruments that give rise to similar risks.

\* \* \* \* \*

*Government Sponsored Enterprise, or GSE*, means a United States Government-sponsored agency or instrumentality originally established or chartered to serve public purposes specified by the United States Congress, but whose obligations are not obligations of the United States and are not guaranteed by the United States.

*Interest rate contracts* include single currency interest-rate swaps, basis swaps, forward rate agreements, interest-rate options, and any similar instrument that gives rise to similar risks, including when-issued securities.

*Market risk* means the risk that the market value, or estimated fair value if market value is not available, of a Bank’s portfolio will decline as a result of changes in interest rates, foreign exchange rates, or equity or commodity prices.

*Market value at risk* is the loss in the market value of a Bank’s portfolio measured from a base line case, where the loss is estimated in accordance with § 1277.5 of this part.

\* \* \* \* \*

*Non-mortgage asset* means an asset held by a Bank other than an advance, a non-rated asset, a residential mortgage, a residential mortgage security, a collateralized mortgage obligation, or a derivatives contract.

*Non-rated asset* means a Bank’s cash, premises, plant and equipment, and investments authorized pursuant to § 1265.3(e) and (f).

*Operational risk* means the risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events.

\* \* \* \* \*

*Residential mortgage* means a loan secured by a residential structure that contains one-to-four dwelling units, regardless of whether the structure is attached to real property. The term encompasses, among other things, loans secured by individual condominium or cooperative units and manufactured housing, whether or not the manufactured housing is considered real property under state law, and participation interests in such loans.

*Residential mortgage security* means any instrument representing an undivided interest in a pool of residential mortgages.

*Sales of federal funds subject to a continuing contract* means an overnight federal funds loan that is automatically renewed each day unless terminated by either the lender or the borrower.

*Total assets* mean the total assets of a Bank, as determined in accordance with GAAP.

\* \* \* \* \*

■ 4. Add Subpart B, consisting of §§ 1277.2 through 1277.8 to read as follows:

**Subpart B—Bank Capital Requirements**

- Sec. 1277.2 Total capital requirement.
- 1277.3 Risk-based capital requirement.

- 1277.4 Credit risk capital requirement.  
 1277.5 Market risk capital requirement.  
 1277.6 Operational risk capital requirement.  
 1277.7 Limits on unsecured extensions of credit; reporting requirements.  
 1277.8 Reporting requirements.

**§ 1277.2 Total capital requirement.**

Each Bank shall maintain at all times:  
 (a) Total capital in an amount at least equal to 4.0 percent of the Bank's total assets; and

(b) A leverage ratio of total capital to total assets of at least 5.0 percent of the Bank's total assets. For purposes of determining this leverage ratio, total capital shall be computed by multiplying the Bank's permanent capital by 1.5 and adding to this product all other components of total capital.

**§ 1277.3 Risk-based capital requirement.**

Each Bank shall maintain at all times permanent capital in an amount at least equal to the sum of its credit risk capital requirement, its market risk capital requirement, and its operational risk capital requirement, calculated in accordance with §§ 1277.4, 1277.5, and 1277.6 of this part, respectively.

**§ 1277.4 Credit risk capital requirement.**

(a) *General requirement.* Each Bank's credit risk capital requirement shall equal the sum of the Bank's individual credit risk capital charges for all advances, residential mortgage assets, non-mortgage assets, non-rated assets, off-balance sheet items, and derivatives contracts, as calculated in accordance with this section.

(b) *Credit risk capital charge for residential mortgage assets.* The credit risk capital charge for residential mortgages, residential mortgage securities, and collateralized mortgage obligations shall be determined as set forth in paragraph (g) of this section.

(c) *Credit risk capital charge for advances, non-mortgage assets, and non-rated assets.* Except as provided in paragraph (j) of this section, each Bank's credit risk capital charge for advances, non-mortgage assets, and non-rated assets shall be equal to the amortized cost of the asset multiplied by the credit risk percentage requirement assigned to that asset pursuant to paragraphs (f)(1) or (f)(2) of this section. For any such asset carried at fair value where any change in fair value is recognized in the Bank's income, the Bank shall calculate the capital charge based on the fair value of the asset rather than its amortized cost.

(d) *Credit risk capital charge for off-balance sheet items.* Each Bank's credit risk capital charge for an off-balance sheet item shall be equal to the credit

equivalent amount of such item, as determined pursuant to paragraph (h) of this section, multiplied by the credit risk percentage requirement assigned to that item pursuant to paragraph (f)(1) and Table 1.2 to § 1277.4, except that the credit risk percentage requirement applied to the credit equivalent amount for a standby letter of credit shall be that for an advance with the same remaining maturity as that of the standby letter of credit, as specified in Table 1.1 to § 1277.4.

(e) *Derivatives contracts.* (1) Except as provided in paragraph (e)(4), the credit risk capital charge for a derivatives contract entered into by a Bank shall equal, after any adjustment allowed under paragraph (e)(2), the sum of:

(i) The current credit exposure for the derivatives contract, calculated in accordance with paragraph (i)(1) of this section, multiplied by the credit risk percentage requirement assigned to that derivatives contract pursuant to Table 1.2 of paragraph (f)(1) of this section, provided that a Bank shall deem the remaining maturity of the derivatives contract to be less than one year for the purpose of applying Table 1.2; plus  
 (ii) The potential future credit exposure for the derivatives contract, calculated in accordance with paragraph (i)(2) of this section, multiplied by the credit risk percentage requirement assigned to that derivatives contract pursuant to Table 1.2 of paragraph (f)(1) of this section, where a Bank uses the actual remaining maturity of the derivatives contract for the purpose of applying Table 1.2 of paragraph (f)(1) of this section; plus

(iii) A credit risk capital charge applicable to the amount of collateral posted by the Bank with respect to a derivatives contract that exceeds the Bank's current payment obligation under that derivatives contract, where the charge equals the amount of such excess collateral multiplied by the credit risk percentage requirement assigned under Table 1.2 of paragraph (f)(1) of this section for the custodian or other party that holds the collateral, and where a Bank deems the exposure to have a remaining maturity of one year or less when applying Table 1.2.

(2)(i) The credit risk capital charge calculated under paragraph (e)(1) of this section may be adjusted for any collateral held by or on behalf of the Bank in accordance with paragraph (e)(3) of this section against an exposure from the derivatives contract as follows:

(A) The discounted value of the collateral shall first be applied to reduce the current credit exposure of the derivatives contract subject the capital charge;

(B) If the total discounted value of the collateral held exceeds the current credit exposure of the contract, any remaining amounts may be applied to reduce the amount of the potential future credit exposure of the derivatives contract subject to the capital charge; and

(C) The amount of the collateral used to reduce the exposure to the derivatives contract is subject to the applicable credit risk capital charge required by paragraphs (b) or (c) of this section.

(ii) If a Bank's counterparty's payment obligations under a derivatives contract are unconditionally guaranteed by a third-party, then the credit risk percentage requirement applicable to the derivatives contract may be that associated with the guarantor, rather than the Bank's counterparty.

(3) The credit risk capital charge may be adjusted as described in paragraph (e)(2)(i) for collateral held against the derivatives contract exposure only if the collateral is:

(i) Held by, or has been paid to, the Bank or held by an independent, third-party custodian on behalf of the Bank pursuant to a custody agreement that meets the requirements of § 1221.7(c) and (d) of this chapter;

(ii) Legally available to absorb losses;

(iii) Of a readily determinable value at which it can be liquidated by the Bank; and  
 (iv) Subject to an appropriate discount to protect against price decline during the holding period and the costs likely to be incurred in the liquidation of the collateral, provided that such discount shall equal at least the minimum discount required under Appendix B to part 1221 of this chapter for collateral listed in that Appendix, or be estimated by the Bank based on appropriate assumptions about the price risks and liquidation costs for collateral not listed in Appendix B to part 1221.

(4) Notwithstanding any other provision in this paragraph (e), the credit risk capital charge for:

(i) A foreign exchange rate contract (excluding gold contracts) with an original maturity of 14 calendar days or less shall be zero;

(ii) A derivatives contract cleared by a derivatives clearing organization shall equal 0.16 percent times the sum of the following:

(A) The current credit exposure for the derivatives contract, calculated in accordance with paragraph (i)(1) of this section;

(B) The potential future credit exposure for the derivatives contract calculated in accordance with paragraph (i)(2) of this section; and

(C) The amount of collateral that the Bank has posted to, and is held by, the derivatives clearing organization, but only to the extent the amount exceeds the Bank's current credit exposure to the derivatives clearing organization.

(f) *Determination of credit risk percentage requirements.* (1) *General.* (i) Each Bank shall determine the credit risk percentage requirement applicable to each advance and each non-rated asset by identifying the appropriate category from Tables 1.1 or 1.3 to § 1277.4, respectively, to which the advance or non-rated asset belongs. Except as provided in paragraphs (f)(2) and (f)(3) of this section, each Bank shall determine the credit risk percentage requirement applicable to

each non-mortgage asset, off-balance sheet item, and derivatives contract by identifying the appropriate category set forth in Table 1.2 to § 1277.4 to which the asset, item, or contract belongs, given its FHFA Credit Rating category, as determined in accordance with paragraph (f)(1)(ii) of this section, and remaining maturity. Each Bank shall use the applicable credit risk percentage requirement to calculate the credit risk capital charge for each asset, item, or contract in accordance with paragraphs (c), (d), or (e) of this section, respectively. The relevant categories and credit risk percentage requirements are provided in the following Tables 1.1 through 1.3 to § 1277.4—

TABLE 1.1 TO § 1277.4— REQUIREMENT FOR ADVANCES

Maturity of advances	Percentage applicable to advances
Advances with:	
Remaining maturity <=4 years .....	0.09
Remaining maturity >4 years to 7 years .....	0.23
Remaining maturity >7 years to 10 years .....	0.35
Remaining maturity >10 years .....	0.51

TABLE 1.2 TO § 1277.4—REQUIREMENT FOR INTERNALLY RATED NON-MORTGAGE ASSETS, OFF-BALANCE SHEET ITEMS, AND DERIVATIVES CONTRACTS

[Based on remaining maturity]

FHFA Credit Rating	Applicable percentage				
	<=1 year	>1 yr to 3 yrs	>3 yrs to 7 yrs	>7 yrs to 10 yrs	>10 yrs
U.S. Government Securities .....	0.00	0.00	0.00	0.00	0.00
FHFA 1 .....	0.20	0.59	1.37	2.28	3.32
FHFA 2 .....	0.36	0.87	1.88	3.07	4.42
FHFA 3 .....	0.64	1.31	2.65	4.22	6.01
FHFA 4 .....	3.24	4.79	7.89	11.51	15.64

**FHFA Ratings Corresponding to Below FHFA Investment Quality**

"FHFA Investment Quality" has the meaning provided in 12 CFR 1267.1

FHFA 5 .....	9.24	11.46	15.90	21.08	27.00
FHFA 6 .....	15.99	18.06	22.18	26.99	32.49
FHFA 7 .....	100.00	100.00	100.00	100.00	100.00

TABLE 1.3 TO § 1277.4—REQUIREMENT FOR NON-RATED ASSETS

Type of unrated asset	Applicable percentage
Cash .....	0.00
Premises, Plant and Equipment Investments Under 12 CFR 1265.3(e) & (f) .....	8.00
	8.00

(ii) Each Bank shall develop a methodology to be used to assign an internal credit risk rating to each counterparty, asset, item, and contract that is subject to Table 1.2 to § 1277.4. The methodology shall involve an evaluation of counterparty or asset risk factors, and may incorporate, but must not rely solely upon, credit ratings prepared by credit rating agencies. Each Bank shall align its various internal credit ratings to the appropriate categories of FHFA Credit Ratings included in Table 1.2 to § 1277.4. In doing so, each Bank shall ensure that the credit risk associated with any asset assigned to FHFA Categories 1 through 4 is no greater than that associated with

an instrument that would be deemed to be of "investment quality," as that term is defined by § 1267.1 of this chapter. FHFA Categories 3 through 1 shall include assets of progressively higher credit quality than Category 4, and FHFA Credit Rating categories 5 through 7 shall include assets of progressively lower credit quality. After aligning its internal credit ratings to the appropriate categories of Table 1.2 to § 1277.4, each Bank shall assign each counterparty, asset, item, and contract to the appropriate FHFA Credit Rating category based on the applicable internal credit rating.

(2) *Exception for assets subject to a guarantee or secured by collateral.* (i) When determining the applicable credit risk percentage requirement from Table 1.2 to § 1277.4 for a non-mortgage asset that is subject to an unconditional guarantee by a third-party guarantor or is secured as set forth in paragraph (f)(2)(ii) of this section, the Bank may substitute the credit risk percentage requirement associated with the guarantor or the collateral, as

appropriate, for the credit risk percentage requirement associated with that portion of the asset subject to the guarantee or covered by the collateral.

(ii) For purposes of paragraph (f)(2)(i) of this section, a non-mortgage asset shall be considered to be secured if the collateral is:

(A) Actually held by the Bank or an independent, third-party custodian on the Bank's behalf, or, if posted by a Bank member and permitted under the Bank's collateral agreement with that member, by the Bank's member or an affiliate of that member where the term "affiliate" has the same meaning as in § 1266.1 of this chapter;

(B) Legally available to absorb losses;

(C) Of a readily determinable value at which it can be liquidated by the Bank;

(D) Held in accordance with the provisions of the Bank's member products policy established pursuant to § 1239.30 of this chapter, if the collateral has been posted by a member or an affiliate of a member; and

(E) Subject to an appropriate discount to protect against price decline during



the holding period and the costs likely to be incurred in the liquidation of the collateral.

(3) *Exception for obligations of the Enterprises.* A Bank may use a credit risk capital charge of zero for any non-mortgage-related debt instrument or obligation issued by an Enterprise, provided that the Enterprise receives capital support or other form of direct financial assistance from the United States government that enables the Enterprise to repay those obligations.

(4) *Exception for methodology deficiencies.* FHFA may direct a Bank, on a case-by-case basis, to change the calculated credit risk capital charge for any non-mortgage asset, off-balance sheet item, or derivatives contract, as necessary to account for any deficiency that FHFA identifies with respect to a Bank's internal credit rating methodology for such assets, items, or contracts.

(g) *Credit risk capital charges for residential mortgage assets—(1) Bank determination of credit risk percentage.* (i) Each Bank's credit risk capital charge for a residential mortgage, residential mortgage security, or collateralized mortgage obligation shall be equal to the asset's amortized cost multiplied by the credit risk percentage requirement assigned to that asset pursuant to paragraphs (g)(1)(ii) or (g)(2) of this section. For any such asset carried at

fair value where any change in fair value is recognized in the Bank's income, the Bank shall calculate the capital charge based on the fair value of the asset rather than its amortized cost.

(ii) Each Bank shall determine the credit risk percentage requirement applicable to each residential mortgage and residential mortgage security by identifying the appropriate FHFA RMA category set forth in Table 1.4 to § 1277.4 to which the asset belongs, and shall determine the credit risk percentage requirement applicable to each collateralized mortgage obligation by identifying the appropriate FHFA CMO category set forth in Table 1.4 to § 1277.4 to which the asset belongs, with the appropriate categories being determined in accordance with paragraph (g)(1)(iii) of this section.

(iii) Each Bank shall develop a methodology to be used to assign an internal credit risk rating to each of its residential mortgages, residential mortgage securities, and collateralized mortgage obligations. For residential mortgages, the methodology shall involve an evaluation of the residential mortgages and any credit enhancements or guarantees, including an assessment of the creditworthiness of the providers of such enhancements or guarantees. In the case of a residential mortgage security or collateralized mortgage obligation, the methodology shall

involve an evaluation of the underlying mortgage collateral, the structure of the security, and any credit enhancements or guarantees, including an assessment of the creditworthiness of the providers of such enhancements or guarantees. Such methodologies may incorporate, but may not rely solely upon, credit ratings prepared by credit ratings agencies. Each Bank shall align its various internal credit ratings to the appropriate categories of FHFA Credit Ratings included in Table 1.4 to § 1277.4. In doing so, each Bank shall ensure that the credit risk associated with any asset assigned to categories FHFA RMA 1 through 4 or FHFA CMO 1 through 4 is no greater than that associated with an instrument that would be deemed to be of "investment quality," as that term is defined by 12 CFR 1267.1. FHFA Categories 3 through 1 shall include assets of progressively higher credit quality than Category 4, and FHFA Categories 5 through 7 shall include assets of progressively lower credit quality. After aligning its internal credit ratings to the appropriate categories of Table 1.4 to § 1277.4, each Bank shall assign each of its residential mortgages, residential mortgage securities, and collateralized mortgage obligation to the appropriate FHFA Credit Ratings category based on the Bank's internal credit rating of that asset.

TABLE 1.4 TO § 1277.4—INTERNALLY RATED RESIDENTIAL MORTGAGE ASSETS

	Percentage applicable
<b>Categories for residential mortgages and residential mortgage securities</b>	
Ratings Above "AMA Investment Grade"*:	
FHFA RMA 1 .....	0.37
FHFA RMA 2 .....	0.60
FHFA RMA 3 .....	0.86
FHFA RMA 4 .....	1.20
Ratings Below "AMA Investment Grade":	
FHFA RMA 5 .....	2.40
FHFA RMA 6 .....	4.80
FHFA RMA 7 .....	34.00
<b>Categories For Collateralized Mortgage Obligations</b>	
Ratings Above "FHFA Investment Quality"**:	
FHFA CMO 1 .....	0.37
FHFA CMO 2 .....	0.60
FHFA CMO 3 .....	1.60
FHFA CMO 4 .....	4.45
Ratings Below "FHFA Investment Quality":	
FHFA CMO 5 .....	13.00
FHFA CMO 6 .....	34.00
FHFA CMO 7 .....	100.00

\* "AMA Investment Grade" has the meaning provided in 12 CFR 1268.1.

\*\* "FHFA Investment Quality" has the same meaning as "investment quality" as provided in 12 CFR 1267.1.

(2) *Exceptions to Table 1.4 to § 1277.4 credit risk percentages.* (i) A Bank may

use a credit risk capital charge of zero for any residential mortgage, residential

mortgage security, or collateralized mortgage obligation, or portion thereof,



guaranteed by an Enterprise as to payment of principal and interest, provided that the Enterprise receives capital support or other form of direct financial assistance from the United States government that enables the Enterprise to repay those obligations;

(ii) A Bank may use a credit risk capital charge of zero for a residential mortgage, residential mortgage security, or collateralized mortgage obligation, or any portion thereof, guaranteed or insured as to payment of principal and interest by a department or agency of the United States government that is

backed by the full faith and credit of the United States; and

(iii) FHFA may direct a Bank, on a case-by-case basis, to change the calculated credit risk capital charge for any residential mortgage, residential mortgage security, or collateralized mortgage obligation, as necessary to account for any deficiency that FHFA identifies with respect to a Bank's internal credit rating methodology for residential mortgages, residential mortgage securities, or collateralized mortgage obligations.

(h) *Calculation of credit equivalent amount for off-balance sheet items.* (1) *General requirement.* The credit equivalent amount for an off-balance sheet item shall be determined by an FHFA-approved model or shall be equal to the face amount of the instrument multiplied by the credit conversion factor assigned to such risk category of instruments, subject to the exceptions in paragraph (h)(2) of this section, provided in the following Table 2 to § 1277.4:

TABLE 2 TO § 1277.4—CREDIT CONVERSION FACTORS FOR OFF-BALANCE SHEET ITEMS

Instrument	Credit conversion factor (in percent)
Asset sales with recourse where the credit risk remains with the Bank .....	100
Commitments to make advances subject to certain drawdown .....	.....
Commitments to acquire loans subject to certain drawdown .....	.....
Standby letters of credit .....	50
Other commitments with original maturity of over one year .....	.....
Other commitments with original maturity of one year or less .....	20

(2) *Exceptions.* The credit conversion factor shall be zero for Other Commitments With Original Maturity of Over One Year and Other Commitments With Original Maturity of One Year or Less, for which Table 2 to § 1277.4 would otherwise apply credit conversion factors of 50 percent or 20 percent, respectively, if the commitments are unconditionally cancelable, or effectively provide for automatic cancellation, due to the deterioration in a borrower's creditworthiness, at any time by the Bank without prior notice.

(i) *Calculation of credit exposures for derivatives contracts.* (1) *Current credit exposure.* (i) *Single derivatives contract.* The current credit exposure for derivatives contracts that are not subject to an eligible master netting agreement shall be:

(A) If the mark-to-market value of the contract is positive, the mark-to-market value of the contract; or

(B) If the mark-to-market value of the contract is zero or negative, zero.

(ii) *Derivatives contracts subject to an eligible master netting agreement.* The current credit exposure for multiple derivatives contracts executed with a single counterparty and subject to an eligible master netting agreement shall be calculated on a net basis and shall equal:

(A) The net sum of all positive and negative mark-to-market values of the individual derivatives contracts subject to the eligible master netting agreement,

if the net sum of the mark-to-market values is positive; or

(B) Zero, if the net sum of the mark-to-market values is zero or negative.

(2) *Potential future credit exposure.* The potential future credit exposure for derivatives contracts, including derivatives contracts with a negative mark-to-market value, shall be calculated:

(i) Using an internal initial margin model that meets the requirements of § 1221.8 of this chapter and is approved by FHFA for use by the Bank, or that has been approved under regulations similar to § 1221.8 of this chapter for use by the Bank's counterparty to calculate initial margin for those derivatives contracts for which the calculation is being done; or

(ii) By applying the standardized approach in Appendix A to Part 1221 of this chapter.

(j) *Credit risk capital charge for non-mortgage assets hedged with credit derivatives.* (1) *Credit derivatives with a remaining maturity of one year or more.* The credit risk capital charge for a non-mortgage asset that is hedged with a credit derivative that has a remaining maturity of one year or more may be reduced only in accordance with paragraph (j)(3) or (j)(4) of this section and only if the credit derivative provides substantial protection against credit losses.

(2) *Credit derivatives with a remaining maturity of less than one year.* The credit risk capital charge for a non-

mortgage asset that is hedged with a credit derivative that has a remaining maturity of less than one year may be reduced only in accordance with paragraph (j)(3) of this section and only if the remaining maturity on the credit derivative is identical to or exceeds the remaining maturity of the hedged non-mortgage asset and the credit derivative provides substantial protection against credit losses.

(3) *Capital charge reduced to zero.* The credit risk capital charge for a non-mortgage asset shall be zero if a credit derivative is used to hedge the credit risk on that asset in accordance with paragraph (j)(1) or (j)(2) of this section, provided that:

(i) The remaining maturity for the credit derivative used for the hedge is identical to or exceeds the remaining maturity for the hedged non-mortgage asset, and either:

(A) The asset referenced in the credit derivative is identical to the hedged non-mortgage asset; or

(B) The asset referenced in the credit derivative is different from the hedged non-mortgage asset, but only if the asset referenced in the credit derivative and the hedged non-mortgage asset have been issued by the same obligor, the asset referenced in the credit derivative ranks *pari passu* to, or more junior than, the hedged non-mortgage asset and has the same maturity as the hedged non-mortgage asset, and cross-default clauses apply; and

(ii) The credit risk capital charge for the credit derivatives contract calculated pursuant to paragraph (e) of this section is still applied.

(4) *Capital charge reduction in certain other cases.* The credit risk capital charge for a non-mortgage asset hedged with a credit derivative in accordance with paragraph (j)(1) of this section shall equal the sum of the credit risk capital charges for the hedged and unhedged portion of the non-mortgage asset provided that:

(i) The remaining maturity for the credit derivative is less than the remaining maturity for the hedged non-mortgage asset and either:

(A) The non-mortgage asset referenced in the credit derivative is identical to the hedged asset; or

(B) The asset referenced in the credit derivative is different from the hedged non-mortgage asset, but only if the asset referenced in the credit derivative and the hedged non-mortgage asset have been issued by the same obligor, the asset referenced in the credit derivative ranks *pari passu* to, or more junior than, the hedged non-mortgage asset and has the same maturity as the hedged non-mortgage asset, and cross-default clauses apply; and

(ii) The credit risk capital charge for the unhedged portion of the non-mortgage asset equals:

(A) The credit risk capital charge for the hedged non-mortgage asset, calculated as the book value of the hedged non-mortgage asset multiplied by that asset's credit risk percentage requirement assigned pursuant to paragraph (f)(1) of this section where the appropriate credit rating is that for the hedged non-mortgage asset and the appropriate maturity is the remaining maturity of the hedged non-mortgage asset; minus

(B) The credit risk capital charge for the hedged non-mortgage asset, calculated as the book value of the hedged non-mortgage asset multiplied by that asset's credit risk percentage requirement assigned pursuant to paragraph (f)(1) of this section where the appropriate credit rating is that for the hedged non-mortgage asset but the appropriate maturity is deemed to be the remaining maturity of the credit derivative; and

(iii) The credit risk capital charge for the hedged portion of the non-mortgage asset is equal to the credit risk capital charge for the credit derivative, calculated in accordance with paragraph (e) of this section.

(k) *Frequency of calculations.* Each Bank shall perform all calculations required by this section at least quarterly, unless otherwise directed by

FHFA, using the advances, residential mortgages, residential mortgage securities, collateralized mortgage obligations, non-rated assets, non-mortgage assets, off-balance sheet items, and derivatives contracts held by the Bank, and, if applicable, the values of, or FHFA Credit Ratings categories for, such assets, off-balance sheet items, or derivatives contracts as of the close of business of the last business day of the calendar period for which the credit risk capital charge is being calculated.

#### **§ 1277.5 Market risk capital requirement.**

(a) *General requirement.* (1) Each Bank's market risk capital requirement shall equal the market value of the Bank's portfolio at risk from movements in interest rates, foreign exchange rates, commodity prices, and equity prices that could occur during periods of market stress, where the market value of the Bank's portfolio at risk is determined using an internal market risk model that fulfills the requirements of paragraph (b) of this section and that has been approved by FHFA.

(2) A Bank may substitute an internal cash flow model to derive a market risk capital requirement in place of that calculated using an internal market risk model under paragraph (a)(1) of this section, provided that:

(i) The Bank obtains FHFA approval of the internal cash flow model and of the assumptions to be applied to the model; and

(ii) The Bank demonstrates to FHFA that the internal cash flow model subjects the Bank's assets and liabilities, off-balance sheet items, and derivatives contracts, including related options, to a comparable degree of stress for such factors as will be required for an internal market risk model.

(b) *Measurement of market value at risk under a Bank's internal market risk model.* (1) Except as provided under paragraph (a)(2) of this section, each Bank shall use an internal market risk model that estimates the market value of the Bank's assets and liabilities, off-balance sheet items, and derivatives contracts, including any related options, and measures the market value of the Bank's portfolio at risk of its assets and liabilities, off-balance sheet items, and derivatives contracts, including related options, from all sources of the Bank's market risks, except that the Bank's model need only incorporate those risks that are material.

(2) The Bank's internal market risk model may use any generally accepted measurement technique, such as variance-covariance models, historical simulations, or Monte Carlo simulations, for estimating the market

value of the Bank's portfolio at risk, provided that any measurement technique used must cover the Bank's material risks.

(3) The measures of the market value of the Bank's portfolio at risk shall include the risks arising from the non-linear price characteristics of options and the sensitivity of the market value of options to changes in the volatility of the options' underlying rates or prices.

(4) The Bank's internal market risk model shall use interest rate and market price scenarios for estimating the market value of the Bank's portfolio at risk, but at a minimum:

(i) The Bank's internal market risk model shall provide an estimate of the market value of the Bank's portfolio at risk such that the probability of a loss greater than that estimated shall be no more than one percent;

(ii) The Bank's internal market risk model shall incorporate scenarios that reflect changes in interest rates, interest rate volatility, option-adjusted spreads, and shape of the yield curve, and changes in market prices, equivalent to those that have been observed over 120-business day periods of market stress. For interest rates, the relevant historical observations should be drawn from the period that starts at the end of the previous month and goes back to the beginning of 1978;

(iii) The total number of, and specific historical observations identified by the Bank as, stress scenarios shall be:

(A) Satisfactory to FHFA;

(B) Representative of the periods of the greatest potential market stress given the Bank's portfolio, and

(C) Comprehensive given the modeling capabilities available to the Bank; and

(iv) The measure of the market value of the Bank's portfolio at risk may incorporate empirical correlations among interest rates.

(5) For any consolidated obligations denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, each Bank shall, in addition to fulfilling the criteria of paragraph (b)(4) of this section, calculate an estimate of the market value of its portfolio at risk resulting from material foreign exchange, equity price or commodity price risk, such that, at a minimum:

(i) The probability of a loss greater than that estimated shall not exceed one percent;

(ii) The scenarios reflect changes in foreign exchange, equity, or commodity market prices that have been observed over 120-business day periods of market stress, as determined using historical data that is from an appropriate period;

(iii) The total number of, and specific historical observations identified by the Bank as, stress scenarios shall be:

(A) Satisfactory to FHFA;

(B) Representative of the periods of greatest potential stress given the Bank's portfolio; and

(C) Comprehensive given the modeling capabilities available to the Bank; and

(iv) The measure of the market value of the Bank's portfolio at risk may incorporate empirical correlations within or among foreign exchange rates, equity prices, or commodity prices.

(c) *Independent validation of Bank internal market risk model or internal cash flow model.* (1) Each Bank shall conduct an independent validation of its internal market risk model or internal cash flow model within the Bank that is carried out by personnel not reporting to the business line responsible for conducting business transactions for the Bank. Alternatively, the Bank may obtain independent validation by an outside party qualified to make such determinations.

Validations shall be done periodically, commensurate with the risk associated with the use of the model, or as frequently as required by FHFA.

(2) The results of such independent validations shall be reviewed by the Bank's board of directors and provided promptly to FHFA.

(d) *FHFA approval of Bank internal market risk model or internal cash flow model.* (1) Each Bank shall obtain FHFA approval of an internal market risk model or an internal cash flow model, including subsequent material adjustments to the model made by the Bank, prior to the use of any model. Each Bank shall make such adjustments to its model as may be directed by FHFA.

(2) A model and any material adjustments to such model that were approved by FHFA or the Federal Housing Finance Board shall meet the requirements of paragraph (d)(1) of this section, unless such approval is revoked or amended by FHFA.

(e) *Frequency of calculations.* Each Bank shall perform any calculations or estimates required under this section at least quarterly, unless otherwise directed by FHFA, using the assets, liabilities, and off-balance sheet items, including derivatives contracts, and options held by the Bank, and if applicable, the values of any such

holdings, as of the close of business of the last business day of the calendar period for which the market risk capital requirement is being calculated.

**§ 1277.6 Operational risk capital requirement.**

(a) *General requirement.* Except as authorized under paragraph (b) of this section, each Bank's operational risk capital requirement shall at all times equal 30 percent of the sum of the Bank's credit risk capital requirement and market risk capital requirement.

(b) *Alternative requirements.* With the approval of FHFA, each Bank may have an operational risk capital requirement equal to less than 30 percent but no less than 10 percent of the sum of the Bank's credit risk capital requirement and market risk capital requirement if:

(1) The Bank provides an alternative methodology for assessing and quantifying an operational risk capital requirement; or

(2) The Bank obtains insurance to cover operational risk from an insurer acceptable to FHFA.

**§ 1277.7 Limits on unsecured extensions of credit; reporting requirements.**

(a) *Unsecured extensions of credit to a single counterparty.* A Bank shall not extend unsecured credit to any single counterparty (other than a GSE described in and subject to the requirements of paragraph (c) of this section) in an amount that would exceed the limits of this paragraph. If a third-party provides an irrevocable, unconditional guarantee of repayment of a credit (or any part thereof), the third-party guarantor shall be considered the counterparty for purposes of calculating and applying the unsecured credit limits of this section with respect to the guaranteed portion of the transaction.

(1) *General Limits.* All unsecured extensions of credit by a Bank to a single counterparty that arise from the Bank's on- and off-balance sheet and derivatives transactions (but excluding the amount of sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract) shall not exceed the product of the maximum capital exposure limit applicable to such counterparty, as determined in accordance with Table 1 of paragraph (a)(4) of § 1277.7, multiplied by the lesser of:

(i) The Bank's total capital; or

(ii) The counterparty's Tier 1 capital, or if Tier 1 capital is not available, total capital (in each case as defined by the counterparty's principal regulator) or some similar comparable measure identified by the Bank.

(2) *Overall limits including sales of overnight federal funds.* All unsecured extensions of credit by a Bank to a single counterparty that arise from the Bank's on- and off-balance sheet and derivatives transactions, including the amounts of sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract, shall not exceed twice the limit calculated pursuant to paragraph (a)(1) of this section.

(3) *Limits for certain obligations issued by state, local, or tribal governmental agencies.* The limit set forth in paragraph (a)(1) of this section, when applied to the marketable direct obligations of state, local, or tribal government units or agencies that are excluded from the prohibition against investments in whole mortgage loans or other types of whole loans, or interests in such loans, by § 1267.3(a)(4)(iii) of this chapter, shall be calculated based on the Bank's total capital and the internal credit rating assigned to the particular obligation, as determined in accordance with paragraph (a)(5) of this section. If a Bank owns series or classes of obligations issued by a particular state, local, or tribal government unit or agency, or has extended other forms of unsecured credit to such entity falling into different rating categories, the total amount of unsecured credit extended by the Bank to that government unit or agency shall not exceed the limit associated with the highest-rated obligation issued by the entity and actually purchased by the Bank.

(4) *Bank determination of applicable maximum capital exposure limits.* (i) Except as set forth in paragraph (a)(4)(ii) of this section, a Bank shall determine the maximum capital exposure limit for each counterparty by assigning the counterparty to the appropriate FHFA Credit Rating category of Table 1 to § 1277.7, based upon the Bank's internal counterparty credit rating, as determined in accordance with paragraph (a)(5) of this section, and the Bank's alignment of its counterparty credit ratings to each of the FHFA Credit Rating categories provided in the following Table 1 to § 1277.7:

TABLE 1 TO § 1277.7—MAXIMUM LIMITS ON UNSECURED EXTENSIONS OF CREDIT TO A SINGLE COUNTERPARTY BY FHFA CREDIT RATING CATEGORY

FHFA Credit Rating of counterparty	Maximum Capital exposure limit (in percent)
FHFA 1 .....	15
FHFA 2 .....	14
FHFA 3 .....	9
FHFA 4 .....	3
Ratings Below "FHFA Investment Quality" ("FHFA Investment Quality" has the same meaning as "investment quality" as provided by 12 CFR 1267.1) .....	.....
FHFA 5 and Below .....	1

(ii) If a Bank determines that a specific debt obligation issued by a counterparty has a lower FHFA Credit Rating category than that applicable to the counterparty, the total amount of the lower-rated obligation held by the Bank may not exceed a sub-limit calculated in accordance with paragraph (a)(1) of this section. The Bank shall use the lower credit rating associated with the specific obligation to determine the applicable maximum capital exposure sub-limit. For purposes of this paragraph, the internal credit rating of the debt obligation shall be determined in accordance with paragraph (a)(5) of this section.

(5) *Bank determination of applicable credit ratings.* A Bank shall determine an internal credit rating for each counterparty, and shall align each such credit rating to the FHFA Credit Rating categories of Table 1 to § 1277.7, using the same methodology for calculating the internal ratings and aligning such ratings to the FHFA Credit Rating categories as the Bank uses for calculating the credit risk capital charge for a counterparty or asset under Table 1.2 of § 1277.4(f). As a consequence, the Bank shall use the same FHFA Credit Rating category for a particular counterparty for purposes of applying the unsecured credit limit under this section as used for calculating the credit risk capital charge for obligations issued by that counterparty under Table 1.2 of § 1277.4.

(b) *Unsecured extensions of credit to affiliated counterparties.* (1) *In general.* The total amount of unsecured extensions of credit by a Bank to a group of affiliated counterparties that arise from the Bank's on- and off-balance sheet and derivatives transactions, including sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract, shall not exceed 30 percent of the Bank's total capital.

(2) *Relation to individual limits.* The aggregate limits calculated under paragraph (b)(1) shall apply in addition

to the limits on extensions of unsecured credit to a single counterparty imposed by paragraph (a) of this section.

(c) *Special limits for certain GSEs.* Unsecured extensions of credit by a Bank that arise from the Bank's on- and off-balance sheet and derivatives transactions, including from the purchase of any debt or from any sales of federal funds with a maturity of one day or less and from sales of federal funds subject to a continuing contract, with a GSE that is operating with capital support or another form of direct financial assistance from the United States government that enables the GSE to repay those obligations shall not exceed the Bank's total capital.

(d) *Extensions of unsecured credit after reduced rating.* If a Bank revises its internal credit rating for any counterparty or obligation, it shall assign the counterparty or obligation to the appropriate FHFA Credit Rating category based on the revised rating. If the revised internal rating results in a lower FHFA Credit Rating category, then any subsequent extensions of unsecured credit shall comply with the maximum capital exposure limit applicable to that lower rating category, but a Bank need not unwind or liquidate any existing transaction or position that complied with the limits of this section at the time it was entered. For the purposes of this paragraph, the renewal of an existing unsecured extension of credit, including any decision not to terminate any sales of federal funds subject to a continuing contract, shall be considered a subsequent extension of unsecured credit that can be undertaken only in accordance with the lower limit.

(e) *Reporting requirements—(1) Total unsecured extensions of credit.* Each Bank shall report monthly to FHFA the amount of the Bank's total unsecured extensions of credit arising from on- and off-balance sheet and derivatives transactions to any single counterparty or group of affiliated counterparties that exceeds 5 percent of:

(i) The Bank's total capital; or

(ii) The counterparty's, or affiliated counterparties' combined, Tier 1 capital, or if Tier 1 capital is not available, total capital (in each case as defined by the counterparty's principal regulator), or some similar comparable measure identified by the Bank.

(2) *Total secured and unsecured extensions of credit.* Each Bank shall report monthly to FHFA the amount of the Bank's total secured and unsecured extensions of credit arising from on- and off-balance sheet and derivatives transactions to any single counterparty or group of affiliated counterparties that exceeds 5 percent of the Bank's total assets.

(3) *Extensions of credit in excess of limits.* A Bank shall report promptly to FHFA any extension of unsecured credit that exceeds any limit set forth in paragraphs (a), (b), or (c) of this section. In making this report, a Bank shall provide the name of the counterparty or group of affiliated counterparties to which the excess unsecured credit has been extended, the dollar amount of the applicable limit which has been exceeded, the dollar amount by which the Bank's extension of unsecured credit exceeds such limit, the dates for which the Bank was not in compliance with the limit, and, if applicable, a brief explanation of any extenuating circumstances which caused the limit to be exceeded.

(f) *Measurement of unsecured extensions of credit—(1) In general.* For purposes of this section, unsecured extensions of credit will be measured as follows:

(i) For on-balance sheet transactions (other than a derivatives transaction addressed by paragraph (f)(1)(iii)) of this section, an amount equal to the sum of the amortized cost of the item plus net payments due the Bank. For any such item carried at fair value where any change in fair value would be recognized in the Bank's income, the Bank shall measure the unsecured extension of credit based on the fair

value of the item, rather than its amortized cost;

(ii) For off-balance sheet transactions, an amount equal to the credit equivalent amount of such item, calculated in accordance with § 1277.4(g); and

(iii) For derivatives transactions not cleared by a derivatives clearing organization, an amount equal to the sum of:

(A) The Bank's current and potential future credit exposures under the derivatives contract, where those values are calculated in accordance with § 1277.4(i)(1) and (i)(2) respectively, adjusted by the amount of any collateral held by or on behalf of the Bank against the credit exposure from the derivatives contract, as allowed in accordance with the requirements of § 1277.4(e)(2) and (e)(3); and

(B) The value of any collateral posted by the Bank that exceeds the current amount owed by the Bank to its counterparty under the derivatives contract, where the collateral is not held by a third-party custodian in accordance with § 1221.7(c) and (d) of this chapter.

(2) *Status of debt obligations purchased by the Bank.* Any debt obligation or debt security (other than mortgage-backed or other asset-backed securities or acquired member assets) purchased by a Bank shall be considered an unsecured extension of credit for the purposes of this section, except for:

(i) Any amount owed the Bank against which the Bank holds collateral in accordance with § 1277.4(f)(2)(ii); or

(ii) Any amount which FHFA has determined on a case-by-case basis shall not be considered an unsecured extension of credit.

(g) *Exceptions to unsecured credit limits.* The following items are not subject to the limits of this section:

(1) Obligations of, or guaranteed by, the United States;

(2) A derivatives transaction accepted for clearing by a derivatives clearing organization;

(3) Any extension of credit from one Bank to another Bank; and

(4) A bond issued by a state housing finance agency if the Bank documents that the obligation in question is:

(i) Principally secured by high quality mortgage loans or high quality mortgage-backed securities (or funds derived from payments on such assets or from payments from any guarantees or insurance associated with such assets);

(ii) The most senior class of obligation, if the bond has more than one class; and

(iii) Determined by the Bank to be rated no lower than FHFA 2, in accordance with this section.

#### § 1277.8 Reporting requirements.

Each Bank shall report information related to capital and other matters addressed by this part 1277 in accordance with instructions provided in the Data Reporting Manual issued by FHFA, as amended from time to time.

Dated: June 22, 2017.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2017-13560 Filed 6-30-17; 8:45 am]

**BILLING CODE 8070-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. FAA-2017-0651; Notice No. 23-17-02-SC]

#### Special Conditions: Game Composites Ltd, GB1 Airplane; Acrobatic Category Aerodynamic Stability

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Game Composites Ltd. GB1 airplane. This airplane will have a novel or unusual design feature(s) associated with static stability. This airplane can perform at the highest level of aerobatic competition. To be competitive, the airplane is designed with its lateral and directional axes being decoupled from each other; providing more precise maneuvering. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send your comments on or before August 2, 2017.

**ADDRESSES:** Send comments identified by docket number FAA-2017-0651 using any of the following methods:

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

*Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West

Building Ground Floor, Washington, DC 20590-0001.

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

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Ross Schaller, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust; Kansas City, Missouri 64106; telephone (816) 329-4162; facsimile (816) 329-4090.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

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

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

##### Background

On March 10, 2014, Game Composite Ltd. applied for a type certificate for their new GB1 airplane. The GB1 is a

single-engine airplane with a two-place tandem canopy cockpit. It features conventional landing gear, conventional low-wing planform, and is mostly constructed of carbon composite materials. The engine is a Lycoming AEIO-580-B1A, fitted with a model MTV-14-B-C/C190-130 4-blade MT-propeller. The airplane will be approved for Day-VFR operations (non-icing). The maximum takeoff weight is 2,200 pounds in acrobatic category with a maximum operating altitude of 15,000 feet. The never exceed speed ( $V_{NE}$ ) is 230 knots, the design cruise speed ( $V_C$ ) is 200 knots, and the design maneuvering speed ( $V_A$ ) is 175 knots.

Acrobatic airplanes previously type certified by the FAA did comply with the stability provisions of part 23, subpart B. However, airplanes like the GB1 are considered as “unlimited” acrobatic airplanes because these airplanes can perform all the maneuvers listed in the Aresti Catalog. Generally, the evolution of the “unlimited” types of acrobatic airplanes, with very low mass, exceptional roll rates, and very high G capabilities—in addition to power to mass ratios—are unique to this type of airplane and have led to airplanes that cannot comply with the stability provisions of the regulations. These airplanes can be type certified in the acrobatic category only with an appropriate set of special conditions and associated limitations.

#### Type Certification Basis

Under the provisions of 14 CFR 21.17, Game Composites Ltd. must show the GB 1 meets the applicable provisions of part 23, as amended by amendments 23-1 through 23-62 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 23) do not contain adequate or appropriate safety standards for the GB1 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the GB1 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under

§ 611 of Public Law 92-574, the “Noise Control Act of 1972.”

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

#### Novel or Unusual Design Features

The GB1 airplane will incorporate the following novel or unusual design features:

For acrobatic category airplanes with unlimited acrobatic capability:

Relaxed longitudinal and decoupled lateral static stability characteristics

#### Discussion

Sections 23.173 and 23.177 provide static stability criteria for longitudinal, lateral, and directional axes requirements for an airplane. However, these requirements are not adequate to address the specific issues raised in the flight characteristics of an unlimited acrobatic airplane. Therefore, the FAA has determined special conditions are needed—after a flight-test evaluation—to address the static stability characteristics of the GB1. Accordingly, these special conditions are for the Game Composites Ltd. GB1 airplane’s static stability characteristics.

#### Applicability

As discussed above, these special conditions are applicable to the GB1. Should Game Composites Ltd. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature the FAA would apply these special conditions to that model as well.

#### Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

#### List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The authority citation for these special conditions is as follows:

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

#### The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special condition as part of the type certification basis for Game Composites GB1 airplanes.

■ 1. Acrobatic Only Category Static Stability Requirements.

■ a. In place of 14 CFR 23.173, “Static longitudinal stability,” comply with the following:

#### SC23.173 Static Longitudinal Stability

Under the conditions in 14 CFR 23.175 and with the airplane trimmed as indicated, the characteristics of the elevator control forces and the friction within the control system must be as follows:

(a) A pull must be required to obtain and maintain speeds below the specified trim speed and a push required to obtain and maintain speeds above the specified trim speed. This must be shown at any speed that can be obtained, except that speeds requiring a control force in excess of 40 pounds or speeds above the maximum allowable speed or below the minimum speed for steady unstalled flight need not be considered.

(b) The stick force or position must vary with speed so any substantial speed change results in a stick force or position clearly perceptible to the pilot.

■ b. In place of 14 CFR 23.177, “Static directional and lateral stability,” comply with the following:

#### SC23.177 Static Directional and Lateral Stability

(a) The static directional stability, as shown by the tendency to recover from a wings level sideslip with the rudder free, must be positive for any landing gear and flap position appropriate to the takeoff, climb, cruise, approach, and landing configurations. This must be shown with symmetrical power up to maximum continuous power and at speeds from 1.2  $V_{S1}$  to  $V_O$  (maximum operating maneuvering speed); the rudder pedal force must not reverse.

(b) In straight, steady slips at 1.2  $V_{S1}$  for any landing gear and flap positions and for any symmetrical power conditions up to 50 percent of maximum continuous power, the rudder control movements and forces must increase steadily—but not necessarily in constant proportion—as the angle of sideslip is increased up to the maximum appropriate for the type of airplane. The aileron control movements and forces may increase steadily, but not necessarily in constant proportion, as the angle of sideslip is increased up to the maximum appropriate for the type of airplane. At larger slip angles, up to the angle at which full rudder or aileron control is used or a control force limit contained in 14 CFR 23.143 is reached, the aileron and rudder control movements and forces must not reverse as the angle of sideslip is increased. Rapid entry into—and recovery from—a maximum

sideslip considered appropriate for the airplane must not result in uncontrollable flight characteristics.

Issued in Kansas City, Missouri, on June 26, 2017.

**Pat Mullen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017-13991 Filed 6-30-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 33

[Docket No. FAA-2017-0586; Notice No. 33-17-01-SC]

#### Special Conditions: Safran Aircraft Engines, Silvercrest-2 SC-2D; Rated Takeoff Thrust at High Ambient Temperature

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Safran Aircraft Engines (SAE), Silvercrest-2 SC-2D engine model. This engine will have a novel or unusual design feature associated with an additional takeoff rating that increases the exhaust gas temperature (EGT) limit to maintain takeoff thrust in certain high ambient temperature conditions for a maximum accumulated usage of 20 minutes in any one flight. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send your comments on or before July 6, 2017.

**ADDRESSES:** Send comments identified by docket number [FAA-2017-0586] using any of the following methods:

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

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

- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12-140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

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

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.transportation.gov/privacy>.

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

**FOR FURTHER INFORMATION CONTACT:** Tara Fitzgerald, ANE-112, Engine and Propeller Directorate, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts, 01803-5213; telephone (781) 238-7130; facsimile (781) 238-7199; email [Tara.Fitzgerald@faa.gov](mailto:Tara.Fitzgerald@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Certification of the Silvercrest-2 SC-2D engine model is currently scheduled for August 2018. The substance of these special conditions has been subject to the notice and public comment procedure. Therefore, because a delay would significantly affect the applicant's certification of the engine, we are shortening the public comment period to end on July 6, 2017.

We invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments we receive, as well as a

report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this special condition, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

#### Background

On April 19, 2011, SNECMA, now known as SAE, applied for a type certificate for the Silvercrest-2 SC-2D engine model. On April 30, 2014, SAE requested an extension to their original type certificate application, which the FAA granted through June 30, 2015. On May 26, 2015, SAE requested another extension to their type certificate application, which the FAA granted through September 30, 2018.

SAE proposed an additional takeoff rating to maintain takeoff thrust in certain high ambient temperature conditions with all engines operating (AEO) for the Silvercrest-2 SC-2D engine model. Therefore, the Silvercrest-2 SC-2D engine model would have two different takeoff ratings. The first rating corresponds with the rated takeoff thrust of the engine. The second takeoff rating maintains the takeoff thrust in certain high ambient temperature conditions. This additional takeoff rating is named "Rated Takeoff Thrust at High Ambient Temperature" (Rated TOTHT). The Rated TOTHT is an approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation for a maximum usage of 20 minutes in any one flight.

#### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.17, SAE must show that the Silvercrest-2 SC-2D meets the applicable provisions of 14 CFR part 33, as amended by Amendments 33-1 through 33-34 in effect on the date of application.

If the FAA finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Silvercrest-2 SC-2D engine model, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that



incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to complying with the applicable product airworthiness regulations and the requirements of the special conditions, the Silvercrest-2 SC-2D engine model must comply with the fuel venting and exhaust emission requirements of 14 CFR part 34.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

### Novel or Unusual Design Features

The Silvercrest-2 SC-2D engine model will incorporate a novel or unusual design feature, referred to as "Rated TOTHAT". This additional takeoff rating increases the EGT limit to maintain takeoff thrust in certain high ambient temperature conditions for a maximum of 20 minutes in any one flight.

### Discussion

The Rated TOTHAT is designed for use during takeoff in specified high altitudes and high ambient temperature conditions to maintain thrust during takeoff for a maximum of 20 minutes in any one flight. These proposed special conditions contain additional mandatory post-flight inspection and maintenance action requirements associated with any use of the Rated TOTHAT. These requirements add a rating definition in part 1.1 and mandate mandatory inspections in the instructions for continued airworthiness (ICA); instructions for installing and operating the engine; engine rating and operating limitations; instrument connection; and endurance testing.

The current requirements of the endurance test under § 33.87 represent a typical airplane flight profile and the severity of the takeoff rating. Therefore, the endurance test under § 33.87 covers normal, all-engines-operating takeoff conditions for which the engine control system limits the engine to the takeoff thrust rating. It is intended to represent the airplane flight profile during takeoff under specified ambient temperatures for a time until the mandatory inspection and maintenance actions can be performed.

These proposed special conditions require additional test cycles that include at least a 150 hours of engine operation as specified in § 33.87(a), to demonstrate the engine is capable of performing the Rated TOTHAT rating during AEO conditions without disassembly or modification.

The associated engine deterioration, after use of the Rated TOTHAT, is not known without the intervening mandatory inspections in these special conditions. These mandatory inspections ensure the engine will continue to comply with its certification basis, which includes these proposed special conditions, after any use of the Rated TOTHAT. The applicant is expected to assess the deterioration from use of the Rated TOTHAT. The airworthiness limitations section (ALS) must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the Rated TOTHAT.

These requirements maintain a level of safety equivalent to the level intended by the applicable airworthiness standards in effect on the date of application.

### Applicability

As discussed above, these proposed special conditions are applicable to the Silvercrest-2 SC-2D engine model. Should SAE apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

### Conclusion

This action affects only the Rated TOTHAT features on the Silvercrest-2 SC-2D engine model. It is not a rule of general applicability and applies only to SAE, who requested FAA approval of this engine feature.

### List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

### The Proposed Special Conditions

Accordingly, the FAA proposes, the following special conditions as part of the type certification basis for SAE, Silvercrest-2 SC-2D engine model.

#### 1. Part 1 Definition

"Rated Take-off Thrust at High Ambient Temperature" (Rated TOTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation. Use is limited to two periods, no longer than 10 minutes each under one engine inoperative (OEI) conditions or 5 minutes each under AEO conditions in

any one flight for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTHAT is used must be followed by mandatory inspection and maintenance actions.

#### 2. Part 33 Requirements

In addition to the airworthiness standards in 14 CFR part 33, effective February 1, 1965, amendments 33-1 through 33-34 applicable to the engine and the Rated TOTHAT, the following special conditions apply:

(a) Section 33.4, Instructions for Continued Airworthiness.

(1) The ALS must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the Rated TOTHAT.

(2) The applicant must validate the adequacy of the inspections and maintenance actions required under paragraph 2(a)(1) of these special conditions.

(3) The applicant must establish an in-service engine evaluation program to ensure the continued adequacy of the instructions for mandatory post-flight inspections and maintenance actions prescribed under paragraph 2(a)(1) of these special conditions, and of the data for thrust assurance procedures required by paragraph 2(b)(2) of these special conditions. The program must include service engine tests or equivalent service engine test experience on engines of similar design and evaluations of service usage of the Rated TOTHAT.

(b) Section 33.5, Instruction manual for installing and operating the engine.

(1) Installation Instructions:

(i) The applicant must identify the means, or provisions for means, provided in compliance with the requirements of paragraph 2(e) of these special conditions.

(ii) The applicant must specify that the engine thrust control system automatically resets the thrust on the operating engine to the Rated TOTHAT level when one engine fails during takeoff at specified altitudes and temperatures.

(iii) The applicant must specify that the Rated TOTHAT is available by manual crew selection at specified altitudes and temperatures in AEO conditions.

(2) Operating Instructions: The applicant must provide data on engine performance characteristics and variability to enable the airplane manufacturer to establish airplane thrust assurance procedures.

(c) Section 33.7, Engine ratings and operating limitations.



(1) Rated TOTHAT and the associated operating limitations are established as follows:

(i) The thrust is the same as the engine takeoff rated thrust with extended flat rating corner point.

(ii) The rotational speed limits are the same as those associated with the engine takeoff rated thrust.

(iii) The applicant must establish a gas temperature steady-state limit and, if necessary, a transient gas over temperature limit for which the duration is no longer than 30 seconds.

(iv) The use is limited to two periods of no longer than 10 minutes each under OEI conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTHAT is used must be followed by mandatory inspections and maintenance actions prescribed by paragraph 2(a)(1) of these special conditions.

(2) The applicant must propose language to include in the type certificate data sheet specified in § 21.41 for the following:

(i) Rated TOTHAT and associated limitations.

(ii) As required by § 33.5(b), Operating instructions, include a note stating that "Rated Takeoff Thrust at High Ambient Temperature (Rated TOTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine. Use is limited to two periods, no longer than 10 minutes each under OEI conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTHAT is used must be followed by mandatory inspection and maintenance actions."

(iii) As required by § 33.5(b), Operating instructions, include a note stating that the engine thrust control system automatically resets the thrust on the operating engine to the Rated TOTHAT level when one engine fails during takeoff at specified altitudes and temperatures, and the Rated TOTHAT is available by manual selection when all engines are operational during takeoff at specified altitudes and temperatures.

(d) Section 33.28, Engine Control Systems.

The engine must incorporate a means, or a provision for a means, for automatic availability and automatic control of the Rated TOTHAT under OEI conditions and must permit manual activation of the Rated TOTHAT under AEO conditions.

(e) Section 33.29, Instrument connection.

The engine must:

(1) Have means, or provisions for means, to alert the pilot when the Rated TOTHAT is in use, when the event begins and when the time interval expires.

(2) Have means, or provision for means, which cannot be reset in flight, to:

(i) Automatically record each use and duration of the Rated TOTHAT, and

(ii) Alert maintenance personnel that the engine has been operated at the Rated TOTHAT and permit retrieval of recorded data.

(3) Have means, or provision for means, to enable routine verification of the proper operation of the means in paragraph 2(e)(1) and (e)(2) of these special conditions.

(f) Section 33.85(b), Calibration tests.

The applicant must base the calibration test on the thrust check at the end of the endurance test required by § 33.87 of these special conditions.

(g) Section 33.87, Endurance test.

(1) In addition to the applicable requirements of § 33.87(a):

(i) The § 33.87 endurance test must be modified as follows:

(A) Modify the thirty minute test cycle at the rated takeoff thrust in § 33.87(b)(2)(ii) to run one minute at rated takeoff thrust, followed by five minutes at the Rated TOTHAT, followed by the rated takeoff thrust for the remaining twenty-four minutes.

(B) The modified thirty minute period described above in paragraph 2(g)(1)(i)(A) must be repeated ten times in cycles 16 through 25 of the § 33.87 endurance test.

(2) After completion of the tests required by § 33.87(b), as modified in paragraph 2(g)(1)(i) above, and without intervening disassembly, except as needed to replace those parts described as consumables in the ICA, the applicant must conduct the following test sequence for a total time of not less than 120 minutes:

(i) Ten minutes at Rated TOTHAT.

(ii) Eighty-eight minutes at rated maximum continuous thrust.

(iii) One minute at 50 percent of rated takeoff thrust.

(iv) Ten minutes at Rated TOTHAT.

(v) Ten minutes at rated maximum continuous thrust.

(vi) One minute at flight idle.

(3) The test sequence of § 33.87(b)(1) through (6) of these special conditions must be run continuously. If a stop occurs during these tests, the interrupted sequence must be repeated unless the applicant shows that the severity of the test would not be

reduced if the current tests were continued.

(4) Where the engine characteristics are such that acceleration to the Rated TOTHAT results in a transient over temperature in excess of the steady-state temperature limit identified in paragraph 2(c)(1)(iii) of these special conditions, the transient gas overtemperature must be applied to each acceleration to the Rated TOTHAT of the test sequence in paragraph 2(g)(2) of these special conditions.

(h) Section 33.93, Teardown inspection.

The applicant must perform the teardown inspection required by § 33.93(a), after completing the endurance test prescribed by § 33.87 of these special conditions.

(i) Section 33.201, Design and test requirements for Early ETOPS eligibility.

In addition to the requirements of § 33.201(c)(1), the simulated ETOPS mission cyclic endurance test must include two cycles of 10 minute duration, each at the Rated TOTHAT; one before the last diversion cycle and one at the end of the ETOPS test.

Issued in Burlington, Massachusetts, on June 13, 2017.

**Carlos A. Pestana,**

*Acting Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2017-14043 Filed 6-29-17; 4:15 pm]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2017-0659; Directorate Identifier 2017-CE-014-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Rockwell Collins, Inc. Traffic Surveillance System Processing Unit**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Rockwell Collins, Inc. TSS-4100 Traffic Surveillance System Processing Units that incorporate TSSA-4100 Field Loadable Software (FLS) Rockwell Collins part numbers 810-0052-002/-003/-010/-011/-012/-100/-101 and are installed on airplanes. This proposed AD was prompted by five

instances of air traffic control observing coasting (extrapolated stale data) of automatic dependent surveillance-broadcast data (position/velocity data). This proposed AD would require installing the TSSA-4100 FLS upgrades on the TSS-4100 units. We are proposing this AD to correct the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by August 17, 2017.

**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 Rockwell Collins, Inc., Collins Aviation Services, 400 Collins Road NE., M/S 164-100, Cedar Rapids, IA 52498-0001; telephone: 888-265-5467 (U.S.) or 319-265-5467; fax: 319-295-4941 (outside U.S.); email: [techmanuals@rockwellcollins.com](mailto:techmanuals@rockwellcollins.com); Internet: [http://www.rockwellcollins.com/Services\\_and\\_Support/Publications.aspx](http://www.rockwellcollins.com/Services_and_Support/Publications.aspx). You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0659; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Paul Rau, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316-946-4149; fax: 316-946-4107; email: [paul.rau@faa.gov](mailto:paul.rau@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2017-0659; Directorate Identifier 2017-CE-014-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

We were notified of five instances of air traffic control observing coasting (extrapolated stale data) automatic dependent surveillance-broadcast data (ADS-B position/velocity data) on a related Rockwell Collins, Inc. platform that shares a common architecture with the TSS-4100 Traffic Surveillance System Processing Units, Rockwell Collins part number (RCPN) 822-2132-001, that are installed on airplanes. The affected units incorporate TSSA-4100

Field Loadable Software (FLS) RCPNs 810-0052-002/-003/-010/-011/-012/-100/-101. An investigation of the events determined that the ADS-B position and the Mode S/traffic alert and collision avoidance system (TCAS) altitude of the TSS-4100 are affected. The extrapolation of the data occurs with no warning to the crew.

This condition, if not corrected, could result in misleading position and/or altitude being reported by the airplane. Misleading altitude data can adversely affect TCAS and possibly lead to mid-air collision due to an incorrect initial resolution advisory (RA) and/or an incorrect RA modification.

**Related Service Information Under 1 CFR Part 51**

We reviewed Rockwell Collins Service Information Letter, TSSA-4100-SIL-10-1, Revision No. 9, dated March 31, 2017. The service letter describes procedures for determining the part number of the affected FLS and the installation procedure for updating the FLS. 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 of this NPRM.

**FAA’s Determination**

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

**Proposed AD Requirements**

This proposed AD would require updating the TSSA-4100 FLS on the TSS-4100 Traffic Surveillance System Processing Unit.

**Costs of Compliance**

We estimate that this proposed AD affects 1,000 products installed on airplanes of U.S. registry.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Upgrade the FLS to RCPN 810-0052-013 or 810-0052-102.	1 work-hour × \$85 per hour = \$85 .....	\$700	\$785	\$785,000

According to the manufacturer, some of the costs of this proposed AD may be covered by the manufacturer, thereby reducing the cost impact on affected

individuals. We do not control manufacturer coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**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.

### 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.

**Rockwell Collins, Inc.:** Docket No. FAA–2017–0659; Directorate Identifier 2017–CE–014–AD.

### (a) Comments Due Date

We must receive comments by August 17, 2017.

### (b) Affected ADs

None.

### (c) Applicability

Rockwell Collins, Inc. TSS–4100 Traffic Surveillance System Processing Units, Rockwell Collins part number (RCPN) 822–2132–001, that incorporate TSSA–4100 Field Loadable Software (FLS) RCPN 810–0052–002/–003/–010/–011/–012/–100/–101; that are installed on but not limited to the airplanes listed in paragraphs (c)(1) through (14) of this AD and are certificated in any category.

- (1) Cessna Citation CJ4 (525C)
- (2) Bombardier Challenger 300 (BD–100–1A10)
- (3) Bombardier Challenger 350 (BD–100–1A10)
- (4) Bombardier Challenger 605 (CL–600–2B16)
- (5) Bombardier Challenger 650 (CL–600–2B16)
- (6) Bombardier CRJ–700 (CL–600–2C10)
- (7) Bombardier CRJ–900 (CL–600–2D24)
- (8) Bombardier CRJ–1000 (CL–600–2E25)
- (9) Bombardier Global 5000 (BD–700–1A11)
- (10) Bombardier Global 5000V (BD–700–1A11)
- (11) Bombardier Global 6000 (BD–700–1A10)
- (12) Embraer Legacy (EMB–550)
- (13) Embraer Legacy 450 (EMB–545)
- (14) Gulfstream G280.

### (d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 34, Navigation.

### (e) Unsafe Condition

This AD was prompted by five instances of air traffic control observing coasting (extrapolated stale data) automatic dependent surveillance-broadcast data (ADS–B position/velocity data). We are issuing this AD to prevent erroneous extrapolation of position/velocity and altitude data that could result in misleading position and/or altitude being reported by the airplane and possibly lead to mid-air collision.

### (f) Compliance

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

### (g) Upgrade of FLS

Within the next 12 months after the effective date of this AD or within the next 750 hours time-in-service after the effective date of this AD, whichever occurs first, upgrade the TSSA–4100 FLS to RCPN 810–0052–013 or 810–0052–102, as applicable, following Rockwell Collins Service Information Letter, TSSA–4100–SIL–10–1, Revision No. 9, dated March 31, 2017.

### (h) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD allows credit for the action required in paragraph (g) of this AD if done before the effective date of this AD following either Rockwell Collins Service Information Letter, TSSA–4100–SIL–10–1, Revision No. 6, dated September 19, 2016; Rockwell Collins Service Information Letter, TSSA–4100–SIL–10–1, Revision No. 7, dated November 21, 2016; or Rockwell Collins Service Information Letter, TSSA–4100–SIL–10–1, Revision No. 8, dated January 4, 2017, provided the TSSA–4100 FLS is upgraded to RCPN 810–0052–013 or 810–0052–102, as applicable.

### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD.

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

### (j) Related Information

(1) For more information about this AD, contact Paul Rau, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; *phone:* 316–946–4149; *fax:* 316–946–4107; *email:* paul.rau@faa.gov.

(2) For service information identified in this AD, contact Rockwell Collins, Inc., Collins Aviation Services, 400 Collins Road NE., M/S 164–100, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: *techmanuals@rockwellcollins.com*; Internet: *http://www.rockwellcollins.com/Services\_and\_Support/Publications.aspx*. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on June 26, 2017.

**Pat Mullen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–13948 Filed 6–30–17; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA-2017-0144; Airspace Docket No. 17-ASW-2]

**Proposed Establishment of Restricted Areas R-5602A and R-5602B; Fort Sill, OK**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish two restricted areas, R-5602A and R-5602B, over a portion of the Fort Sill, OK, R-5601 restricted area complex in support of an emerging kinetic and directed energy weapons training requirement for the United States (U.S.) Army Fires Center of Excellence at Fort Sill. This additional airspace would allow for the segregation of hazardous activities from non-participating traffic.

**DATES:** Comments must be received on or before August 17, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001; telephone: (202) 366-9826. You must identify FAA Docket No. FAA-2017-0144 and Airspace Docket No. 17-ASW-2, at the beginning of your comments. You may also submit comments through the Internet at [www.regulations.gov](http://www.regulations.gov). You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527), is on the ground floor of the building at the above address.

Comments on environmental and land use aspects should be directed to: U.S. Army Garrison, Directorate of Public Works, Attn: IMSI-PWE (Sarah Sminkey), Environmental Quality Division, Fort Sill, OK 73503-5100; email: [sarah.e.sminkey.civ@mail.mil](mailto:sarah.e.sminkey.civ@mail.mil); phone: (580) 442-2849.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8783.

**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 the 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 would establish the restricted area airspace at Fort Sill, OK, to enhance aviation safety and accommodate essential U.S. Army hazardous above-the-horizon laser operations conducting counter unmanned aircraft systems (UAS) activities.

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2017-0144 and Airspace Docket No. 17-ASW-2) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at [www.regulations.gov](http://www.regulations.gov).

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2017-0144 and Airspace Docket No. 17-ASW-2." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the

closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at [www.regulations.gov](http://www.regulations.gov). Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person at the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX 76177.

**Background**

As the U.S. Army's Center of Excellence for Fires, Fort Sill has submitted a proposal to the FAA to establish two restricted areas overlying a portion of the Fort Sill R-5601 restricted area complex, and extending slightly eastward, to support an emerging kinetic and directed energy weapons training mission. The designated altitudes of the proposed restricted areas would extend upward from 40,000 feet mean sea level (MSL) to 60,000 feet MSL.

Fort Sill has long been the U.S. Army's schoolhouse for traditional field artillery training and it has now been tasked to field advanced technology weapons, and train soldiers in their use for both field artillery and air defense artillery missions. Railguns, hypervelocity projectiles, and lasers being introduced at Fort Sill represent a technological leap in capability, and require additional high altitude segregated airspace to contain the hazardous activities and protect non-participating air traffic from those hazardous activities.

The primary activities associated with the proposed R-5602A would include high trajectory surface-to-surface kinetic weapons employment using existing firing points and impact areas, with occasional laser fires passing through R-5601 complex restricted area airspace and the proposed R-5602A before entering the proposed R-5602B restricted area. The proposed R-5602B

would be established solely to contain directed energy laser fires intended to destroy adversary UAS. Target UAS would only operate in the lower R-5601 restricted areas since the proposed R-5602A and R-5602B restricted areas would not be approved for aviation activity. For directed energy laser fires that extend beyond the ceiling of the proposed R-5602B restricted area, Fort Sill would follow existing interagency procedures to ensure protection of both manned aircraft and space assets operating above 60,000 feet MSL.

To leverage advanced technology weapons capabilities for training soldiers in emerging field artillery and air defense artillery missions, Fort Sill requires additional restricted area airspace. Through extensive safety analysis, the U.S. Army has determined that the volume of restricted area airspace proposed in R-5602A and R-5602B is the minimum amount required to contain the planned hazardous activities and protect non-participant air traffic in the area.

Minimal aeronautical impact is anticipated since the proposed restricted areas would be located above a portion of the existing R-5601 complex, which extends from the surface to 40,000 feet MSL, and the designated altitudes of the proposed restricted areas would extend upward from 40,000 feet MSL to 60,000 feet MSL.

### The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to establish two new restricted areas, R-5602A and R-5602B, overlying a portion of the R-5601 complex located at Fort Sill, OK. The new restricted areas would support the U.S. Army fielding advanced technology weapons and training for emerging field artillery and air defense artillery missions. To effectively segregate non-participant air traffic from the hazardous activities associated with the use of the advanced technology weapons at Fort Sill, the proposed R-5602A and R-5602B restricted areas would extend upward from 40,000 feet MSL to 60,000 feet MSL and be activated by a Notice to Airman (NOTAM).

The proposed lateral boundaries for R-5602A would overlie and extend upward over the ceilings of the R-5601A, R-5601B, and a portion of R-5601F restricted areas. The proposed lateral boundaries for R-5602B would extend a shelf of restricted area airspace approximately 8 nautical miles (NM) east beyond the R-5601A and R-5601F eastern boundaries. Collectively, the proposed R-5602A and R-5602B

restricted areas and the existing R-5601 complex would fully contain planned hazardous activities within restricted area airspace from the surface to 60,000 feet MSL. Existing interagency procedures would be followed to further segregate hazardous activities from manned aircraft and space assets operating above 60,000 feet MSL.

The proposed designated altitudes for the proposed R-5602A and R-5602B restricted areas would extend upward from 40,000 feet MSL to 60,000 feet MSL. The altitudes are defined relative to MSL to highlight that the proposed area would be used for other than aircraft operations. From an air traffic perspective, establishing the proposed restricted areas for other than aircraft operations reduces the radar separation requirements for circumnavigating the proposed restricted areas and contributes to minimizing impacts to aviation.

The proposed time of designation for the proposed R-5602A and R-5602B restricted areas would be, "By NOTAM 0830-1630, Monday-Friday; other times by NOTAM." The expected usage for the proposed R-5602A would be approximately 8 hours per day on most weekdays, consistent with in-garrison syllabus training. However, the expected usage for the proposed R-5602B would be much lower to approximately 25 days per year. Due to the heavy dependence on favorable weather and unpredictability of seasonal weather patterns, NOTAM activation is considered an operational necessity for both proposed restricted areas.

### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### PART 73—SPECIAL USE AIRSPACE

- 1. The authority citation for part 73 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.

#### § 73.56 Oklahoma (Amended)

- 2. § 73.56 is amended as follows:

\* \* \* \* \*

#### R-5602A Fort Sill, OK [New]

**Boundaries.** Beginning at lat. 34°46'45" N., long. 98°17'01" W.; to lat. 34°38'15" N., long. 98°17'01" W.; to lat. 34°38'15" N., long. 98°37'57" W.; to lat. 34°40'54" N., long. 98°37'56" W.; to lat. 34°42'07" N., long. 98°37'20" W.; to lat. 34°43'21" N., long. 98°36'02" W.; to lat. 34°43'30" N., long. 98°35'40" W.; to lat. 34°45'03" N., long. 98°29'46" W.; to lat. 34°46'15" N., long. 98°25'01" W.; to lat. 34°47'00" N., long. 98°17'46" W.; to the point of beginning.

**Designated altitudes.** 40,000 feet MSL to 60,000 feet MSL.

**Time of designation.** By NOTAM 0830-1630, Monday-Friday; other times by NOTAM.

**Controlling agency.** FAA, Fort Worth ARTCC.

**Using agency.** U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCE) and Fort Sill, Fort Sill, OK.

#### R-5602B Fort Sill, OK [New]

**Boundaries.** Beginning at lat. 34°49'30" N., long. 98°08'43" W.; to lat. 34°36'36" N., long. 98°08'43" W.; to lat. 34°38'15" N., long. 98°17'01" W.; to lat. 34°46'06" N., long. 98°17'01" W.; to the point of beginning.

**Designated altitudes.** 40,000 feet MSL to 60,000 feet MSL.

**Time of designation.** By NOTAM 0830-1630, Monday-Friday; other times by NOTAM.

**Controlling agency.** FAA, Fort Worth ARTCC.

**Using agency.** U.S. Army, Commanding General, U.S. Army Fires Center of Excellence (USAFCE) and Fort Sill, Fort Sill, OK.

Issued in Washington, DC, on June 26, 2017.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017-13990 Filed 6-30-17; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Part 101

[Docket No. USCBP-2017-0017]

#### Extension of Port Limits of Savannah, GA

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** U.S. Customs and Border Protection (CBP) is proposing to extend the geographical limits of the port of entry of Savannah, Georgia. The proposed extension will make the boundaries more easily identifiable to the public and will allow for uniform and continuous service to the extended area of Savannah, Georgia. The proposed change is part of CBP's continuing program to use its personnel, facilities, and resources more efficiently and to provide better service to carriers, importers, and the general public.

**DATES:** Comments must be received on or before September 1, 2017.

**ADDRESSES:** Please submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2017-0017.

- *Mail:* Trade and Commercial Regulations Branch, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of

Trade, Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

#### FOR FURTHER INFORMATION CONTACT:

Roger Kaplan, Office of Field Operations, U.S. Customs and Border Protection, (202) 325-4543, or by email at [Roger.Kaplan@dhs.gov](mailto:Roger.Kaplan@dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

##### II. Background

As part of its continuing efforts to use CBP's personnel, facilities, and resources more efficiently, and to provide better service to carriers, importers, and the general public, CBP is proposing to extend the limits of the Savannah, Georgia port of entry. The CBP ports of entry are locations where CBP officers and employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of customs, immigration, agriculture, and related U.S. laws at the border. The term "port of entry" is used in the Code of Federal Regulations (CFR) in title 8 for immigration purposes and in title 19 for customs purposes. For immigration purposes, Savannah, Georgia port of entry is classified as a Class A port in District 26 under 8 CFR 100.4(a).<sup>1</sup> For customs purposes, CBP regulations list designated CBP ports of entry and the limits of each port in 19 CFR 101.3(b)(1).

Savannah, Georgia was designated as a customs port of entry by the President's message of March 3, 1913, concerning a reorganization of the U.S. Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Executive Order 8367, dated March 5, 1940, established specific

<sup>1</sup> Ports of entry for immigration purposes are currently listed at 8 CFR 100.4.

geographical boundaries for the port of entry of Savannah, Georgia.

The current boundaries of the Savannah port of entry begin at the intersection of US Highway 17 and Little Back River on the line between South Carolina and Georgia; thence in a general southeasterly direction through the Little Back River, Back River, Savannah River and South Channel to the mouth of St. Augustine Creek, a distance of 11.6 miles; thence in a straight line in a southwesterly direction to the intersection of Moore Avenue and DeRenne Avenue, a distance of 5.8 miles; thence in a straight line in a westerly direction to the intersection of Middle Ground Road and DeRenne Avenue, a distance of 2.7 miles; thence in a straight line in a westerly direction to the intersection of Garrard Avenue and Ogeechee Road, a distance of 2.4 miles; thence in a straight line in a northwesterly direction to the intersection of Louisville Road and Bourne Avenue, a distance of 6.2 miles; thence in a straight line in a northeasterly direction to the intersection of Augusta Road and Augustine Creek, a distance of 4.8 miles; thence in a general easterly direction along Augustine Creek to the Savannah River, a distance of 2.4 miles; thence in a straight line in an easterly direction to the Chatham County line on Coastal Highway and Little Back River (the point of the beginning), a distance of 1.4 miles. CBP has included a map of the current port limits in the docket as "Attachment: Port of Entry of Savannah (blue lines)."

Travel modes, trade volume, and transportation infrastructure have expanded greatly since 1940. For example, much of Savannah-Hilton Head International Airport is located beyond the current port limits, including the site of the proposed replacement Federal Inspection Service facility for arriving international travelers. Similarly, distribution centers and cold storage agricultural facilities that support the seaport are located outside existing port limits. As a result, the greater Savannah area's trade and travel communities do not know with certainty if they will be able to receive CBP services if they build facilities on the region's remaining undeveloped properties, almost all outside the boundaries of the port of entry.

To address these concerns regarding the geographic limits of the port, CBP is proposing to amend 19 CFR 101.3(b)(1) to extend the boundaries of the port of entry of Savannah, Georgia, to include the majority of Chatham County, Georgia, as well as a small portion of Jasper County, South Carolina. The

update will also provide uniform and continuous service to the extended area of Savannah, Georgia, and respond to the needs of the trade and travel communities. Further, the extension of the boundaries will include all of Savannah-Hilton Head Airport, the distribution centers and cold storage agricultural facilities, as well as the site of the proposed replacement Federal Inspection Service facility for arriving international travelers, and any other projected new facilities. However, the proposed change in the boundaries of the port of Savannah, Georgia, will not result in a change in the service that is provided to the public by the port and will not require a change in the staffing or workload at the port.

### III. Proposed Port Limits of Savannah, Georgia

The new port limits of Savannah, Georgia, are proposed as follows:

From 32°14.588' N.—081°08.455' W. (where Federal Interstate Highway 95 crosses the South Carolina-Georgia state line) and extending in a straight line to 32°04.903' N.—080°04.998' W. (where Walls Cut meets Wright River and Turtle Island); then proceeding in a straight line to 31°52.651' N.—081°03.331' W. (where Adams Creek meets Green Island South); then proceeding northwest in a straight line to 32°00.280' N.—081°17.00' W. (where Highway 204 intersects Federal Interstate Highway 95); then proceeding along the length of Federal Interstate Highway 95 to the point of beginning at the state line. CBP has included a map of the proposed port limits in the docket as “Attachment: Port of Entry of Savannah (red lines).”

### IV. Inapplicability of Notice and Public Procedure Requirements

CBP routinely establishes, expands, and consolidates ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. This proposed amendment is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization (5 U.S.C. 553(a)(2) and 553(b)(3)(A)). Notwithstanding the above, CBP generally provides the public with an opportunity to comment on the establishment, expansion and consolidation of ports of entry.

### V. Statutory and Regulatory Reviews

#### A. Executive Orders 12866, 13563 and 13771

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563

(“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

The proposed change is intended to expand the geographical boundaries of the Savannah, Georgia, port of entry, and make the boundaries more easily identifiable to the public. There are no new costs to the public associated with this rule.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This proposed rule merely expands the limits of an existing port of entry and does not impose any new costs on the public. Accordingly, we certify that this rule would not have a significant economic impact on a substantial number of small entities.

#### C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### D. Executive Order 13132

The rule 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### E. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the extension of port limits is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his delegate).

### VI. Authority

This change is proposed under the authority of 5 U.S.C. 301; 6 U.S.C. 101, *et seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

### VII. Proposed Amendment to the Regulations

If the proposed port limits for Savannah, Georgia, are adopted, CBP will amend 19 CFR 101.3(b)(1) as necessary to reflect the new port limits.

Dated: June 27, 2017.

**Elaine C. Duke,**  
Deputy Secretary.

[FR Doc. 2017–13983 Filed 6–30–17; 8:45 am]

**BILLING CODE 9111–14–P**



**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R04–OAR–2017–0014; FRL–9964–33–Region 4]

**Air Plan Approval; Kentucky; Removal of Stage II Gasoline Vapor Recovery Program****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky through its Energy and Environment Cabinet (EEC) on November 10, 2016, for the Louisville Metro Air Pollution Control District (District). This SIP revision seeks to remove Stage II vapor control requirements for new and upgraded gasoline dispensing facilities and allow for the decommissioning of existing Stage II equipment in Jefferson County, Kentucky. EPA has preliminarily determined that Kentucky's November 10, 2016, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act).

**DATES:** Written comments must be received on or before August 2, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0014 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory

Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's phone number is (404) 562–9222. She can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background for Federal Stage II Requirements**

Stage I vapor recovery is a type of emission control system that captures gasoline vapors that are released when gasoline is delivered to a storage tank. The vapors are returned to the tank truck as the storage tank is being filled with fuel, rather than released to the ambient air. Stage II and onboard refueling vapor recovery (ORVR) are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II systems are specifically installed at gasoline dispensing facilities and capture the refueling fuel vapors at the gasoline pump nozzle. The system carries the vapors back to the underground storage tank at the gasoline dispensing facility to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Under section 182(b)(3) of the CAA, each state was required to submit a SIP revision to implement Stage II for all ozone nonattainment areas classified as moderate, serious, severe, or extreme, primarily for the control of volatile organic compounds (VOC)—a precursor to ozone formation.<sup>1</sup> However, section

<sup>1</sup> Section 182(b)(3) states that each State in which all or part of an ozone nonattainment area classified as moderate or above shall, with respect to that area, submit a SIP revision requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Specifically, the CAA specifies that the Stage II requirements must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), as defined in section 324 of the CAA, any facility that dispenses more than 50,000 gallons of gasoline per month. Additionally, the CAA specifies the deadlines by which certain facilities must comply with the Stage II requirements. For facilities that are not owned or operated by an ISBM, these deadlines, calculated from the time of State adoption of the Stage II requirements, are: (1) 6 months for facilities for which construction began after November 15, 1990, (2) 1 year for facilities that dispense greater than 100,000 gallons of gasoline per month, and (3) by November 15, 1994, for all other facilities. For

202(a)(6) of the CAA states that the section 182(b)(3) Stage II requirements for moderate ozone nonattainment areas shall not apply after the promulgation of ORVR standards.<sup>2</sup> ORVR standards were promulgated by EPA on April 6, 1994. See 59 FR 16262 and 40 CFR parts 86, 88, and 600. As a result, the CAA no longer requires moderate areas to impose Stage II controls under section 182(b)(3), and such areas were able to submit SIP revisions, in compliance with section 110(l) of the CAA, to remove Stage II requirements from their SIPs. EPA's policy memoranda related to ORVR, dated March 9, 1993, and June 23, 1993, provide further guidance on removing Stage II requirements from certain areas. The policy memorandum dated March 9, 1993, states that “[w]hen onboard rules are promulgated, a State may withdraw its Stage II rules for moderate areas from the SIP (or from consideration as a SIP revision) consistent with its obligations under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirement of the Act.”<sup>3</sup>

CAA section 202(a)(6) also provides discretionary authority to the EPA Administrator to, by rule, revise or waive the section 182(b)(3) Stage II requirement for serious, severe, and extreme ozone nonattainment areas after the Administrator determines that ORVR is in widespread use throughout the motor vehicle fleet. On May 16, 2012, in a rulemaking entitled “Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver,” EPA determined that ORVR technology is in widespread use throughout the motor vehicle fleet for

ISBMs, section 324(a) of the CAA provides the following three-year phase-in period: (1) 33 percent of the facilities owned by an ISBM by the end of the first year after the regulations take effect; (2) 66 percent of such facilities by the end of the second year; and (3) 100 percent of such facilities after the third year.

<sup>2</sup> ORVR is a system employed on gasoline-powered highway motor vehicles to capture gasoline vapors displaced from a vehicle fuel tank during refueling events. These systems are required under section 202(a)(6) of the CAA, and implementation of these requirements began in the 1998 model year. Currently, they are used on all gasoline-powered passenger cars, light trucks and complete heavy trucks of less than 14,000 pounds GVWR. ORVR systems typically employ a liquid file neck seal to block vapor escape to the atmosphere and otherwise share many components with the vehicles' evaporative emission control system including the onboard diagnostic system sensors.

<sup>3</sup> Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Directors, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Areas* (March 9, 1993), available at: [http://www.epa.gov/ttn/naaqs/aqmguide/collection/cp2/19930309\\_seitz\\_onboard\\_impact\\_stage2\\_.pdf](http://www.epa.gov/ttn/naaqs/aqmguide/collection/cp2/19930309_seitz_onboard_impact_stage2_.pdf).



purposes of controlling motor vehicle refueling emissions. See 77 FR 28772. By that action, EPA waived the requirement for states to implement Stage II gasoline vapor recovery systems at gasoline dispensing facilities in nonattainment areas classified as serious and above for the ozone NAAQS. Effective May 16, 2012, states implementing mandatory Stage II programs under section 182(b)(3) of the CAA were allowed to submit SIP revisions to remove this program. See 40 CFR 51.126(b).<sup>4</sup> On April 7, 2012, EPA released the guidance entitled “Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures” for states to consider in preparing their SIP revisions to remove existing Stage II programs from state implementation plans.<sup>5</sup>

## II. Kentucky’s Stage II Requirements for Jefferson County

On November 6, 1991, EPA designated and classified Jefferson County and portions for Bullitt and Oldham Counties in Kentucky (hereinafter referred to as the “Kentucky portion of the Louisville Area” or “Area”) as part of the five-county area in and around the Louisville, KY-IN, area as a moderate nonattainment area for the 1-hour ozone NAAQS.<sup>6</sup> See 56 FR 56694, 56765. As mentioned above, the “moderate” classification triggered various statutory requirements for this Area, including the requirement pursuant to section 182(b)(3) of the CAA for the Area to require all owners and operators of gasoline dispensing systems to install and operate a system for gasoline vapor recovery of emissions from the fueling of motor vehicles known as “Stage II.”<sup>7</sup>

On March 4, 1993, the Commonwealth of Kentucky, on behalf

<sup>4</sup> As noted above, EPA found, pursuant to CAA section 202(a)(6), that ORVR systems are in widespread use in the motor vehicle fleet and waived the CAA section 182(b)(3) Stage II vapor recovery requirement for serious and higher ozone nonattainment areas on May 16, 2012. Thus, in its implementation rule for the 2008 ozone NAAQS, EPA removed the section 182(b)(3) Stage II requirement from the list of applicable requirements in 40 CFR 51.1100(o). See 80 FR 12264 for additional information.

<sup>5</sup> This guidance document is available at: <http://www.epa.gov/groundlevelozone/pdfs/20120807guidance.pdf>.

<sup>6</sup> The other counties in this nonattainment area were Clark and Floyd Counties in Indiana. See 56 FR 56755.

<sup>7</sup> As discussed above, Stage II is a system designed to capture displaced vapors that emerge from inside a vehicle’s fuel tank when gasoline is dispensed into the tank. There are two basic types of Stage II systems, the balance type and the vacuum assist type.

of Jefferson County, submitted a SIP revision to address the Stage II requirements for the Kentucky portion of the Louisville Area. EPA approved that SIP revision, containing Jefferson County Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)*, in a notice published on March 6, 1996. See 61 FR 8873. Louisville’s Stage II rule, as currently incorporated into the SIP, requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency by using a system approved by the California Air Resources Board. The rule requires sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change). Louisville also established an inspection program consistent with that described in EPA’s Stage II guidance and has established procedures for enforcing violations of the Stage II requirements.

On March 30, 2001, Kentucky submitted to EPA a request to redesignate the Kentucky portion of the Louisville Area to attainment for the 1-hour ozone standard and an associated maintenance plan. The maintenance plan, as required under section 175A of the CAA, showed that nitrogen oxides and VOC emissions in the Area would remain below the 1999 “attainment year” levels through the greater than ten-year period from 1999–2012. In making these projections, Kentucky factored in the emissions benefit of the Area’s Stage II program, thereby maintaining this program as an active part of its 1-hour ozone SIP. The redesignation request and maintenance plan were approved by EPA, effective November 23, 2001. See 66 FR 53665.

Subsequently, Bullitt, Jefferson and Oldham counties in Kentucky (or portions thereof) were designated nonattainment as a part of a larger bi-state nonattainment area which included Kentucky and Indiana counties in and around the Louisville Area for the 1997 8-hour ozone standard.<sup>8</sup> On July 5, 2007, the Area (i.e., the Kentucky portion of the bi-state Louisville Area) was redesignated to attainment of the 1997 8-hour ozone NAAQS. See 72 FR 36601.<sup>9</sup> The

<sup>8</sup> No counties in and around the Louisville Area were designated nonattainment for the 2008 8-hour ozone NAAQS.

<sup>9</sup> A technical amendment for the approval of the redesignation request and maintenance plan was subsequently published on August 24, 2007. See 72 FR 48558.

Louisville Area is attaining the 2008 ozone NAAQS.

## III. Analysis of the Commonwealth’s Submittal

On November 10, 2016, the Commonwealth of Kentucky submitted a revision for the Jefferson County portion of the Kentucky SIP to EPA seeking modifications of the Stage II requirements in the Kentucky portion of the Louisville Area. Specifically, it seeks the removal of Jefferson County Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)* from the Kentucky SIP. These modifications would remove Stage II vapor control requirements for new and upgraded gasoline dispensing facilities in the Louisville Area and allow for the decommissioning of existing Stage II equipment.

EPA’s primary consideration for determining the approvability of the Commonwealth of Kentucky’s request is whether this requested action complies with section 110(l) of the CAA.<sup>10</sup> Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis, considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated, but for which the EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA’s analysis of Kentucky’s November 10, 2016, SIP revision pursuant to section 110(l) is provided below.

In its November 10, 2016, SIP revision, Kentucky used EPA’s guidance entitled “Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures” to conduct a series of calculations to determine the potential impact on air quality of removing the Stage II

<sup>10</sup> In addition to a 110(l) noninterference demonstration, CAA section 193 is a general savings clause that can prohibit removing a control measure entirely if it was adopted in a nonattainment area by order, settlement agreement, or plan in effect before the 1990 CAA amendments. Because Kentucky’s Stage II rule was not included in the SIP before the 1990 CAA amendments, section 193 of the CAA does not apply.

program.<sup>11</sup> The 110(l) noninterference demonstration for the Kentucky portion of the Louisville Area focused on VOC emissions because, as mentioned above, Stage II requirements affect VOC emissions and because VOC emissions are a precursor for ozone formation. The results of Kentucky's analysis are provided in the table below.

TABLE 1—VOC EMISSIONS DIFFERENCE BETWEEN STAGE II VRS IN PLACE AND REMOVED

Year	VOC emissions (tons per day)
2013 .....	5.11
2014 .....	3.10
2015 .....	1.41
2016 .....	0.06
2017 .....	-1.21
2018 .....	-2.24
2019 .....	-3.11

Table 1 shows that the removal of Stage II vapor recovery systems in the Kentucky portion of the Louisville Area starting in 2017 would have resulted and will result in a VOC emission decrease. If instead Stage II requirements are kept in place, VOC emissions will decrease by less, and it will be less beneficial to air quality in the Kentucky portion of the Louisville Area to keep Stage II systems in operation.<sup>12</sup>

<sup>11</sup> EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001 (Aug. 7, 2012), available at <https://www.epa.gov/ozone-pollution/ozone-stage-two-vapor-recovery-rule-and-guidance>. This guidance document notes that "the potential emission control losses from removing Stage II VRS are transitional and relatively small. ORVR-equipped vehicles will continue to phase in to the fleet over the coming years and will exceed 80 percent of all highway gasoline vehicles and 85 percent of all gasoline dispensed during 2015. As the number of these ORVR-equipped vehicles increase, the control attributed to Stage II VRS will decrease even further, and the potential foregone Stage II VOC emission reductions are generally expected to be no more than one percent of the VOC inventory in the area."

<sup>12</sup> The emissions-reduction disbenefit associated with continued implementation of Stage II requirements is due to the incompatibility of some Stage II and ORVR systems. Compatibility problems can result in an increase in emissions from the underground storage tank (UST) vent pipe and other system fugitive emissions related to the refueling of ORVR vehicles with some types of vacuum assist-type Stage II systems. This occurs during refueling an ORVR vehicle when the vacuum assist system draws fresh air into the UST rather than an air vapor mixture from the vehicle fuel tank. Vapor flow from the vehicle fuel tank is blocked by the liquid seal in the fill pipe which forms at a level deeper in the fill pipe than can be reached by the end of the nozzle spout. The fresh air drawn into the UST enhances gasoline evaporation in the UST which increases pressure in the UST. Unless it is lost as a fugitive emission, any

The affected sources covered by the Kentucky portion of the Louisville Area portion of Kentucky's Stage II vapor recovery requirements are sources of VOC. Other criteria pollutants (carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter, and lead) are not emitted by gasoline dispensing facilities and will not be affected by the removal of Stage II controls.

The proposed revisions to Jefferson County Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)*, include that gasoline dispensing facilities located in the Kentucky portion of the Louisville Area shall decommission and remove the systems no later than December 31, 2018. Kentucky noted in its submission that the decommissioning procedures in the revised version of Jefferson County Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)*, follow Petroleum Equipment Institute (PEI) guidance, "Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites," PEI/RP300-09.

EPA is proposing to determine that Kentucky's technical analysis is consistent with EPA's guidance on removing Stage II requirements from a SIP, including as it relates to the decommissioning and phasing out of the Stage II requirements for the Kentucky portion of the Louisville Area. EPA is also making the preliminary determination that Kentucky's SIP revision is consistent with the CAA and with EPA's regulations related to removal of Stage II requirements from the SIP, and that these changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l).

#### IV. 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 Jefferson County Regulation 6.40,

tank pressure in excess of the rating of the pressure/vacuum valve is vented to the atmosphere over the course of a day. See EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001 (Aug. 7, 2012), available at: <https://www.epa.gov/ozone-pollution/ozone-stage-two-vapor-recovery-rule-and-guidance>. Thus, as ORVR technology is phased in, the amount of emission control that is gained through Stage II systems decreases.

*Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)*, effective May 18, 2016. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky's November 10, 2016, SIP revision that changes the Louisville Area's Stage II rule, Jefferson County Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control Systems)*, to allow for the removal of the Stage II requirement and the orderly decommissioning of Stage II equipment. EPA is proposing this approval because the Agency has made the preliminary determination that the Commonwealth of Kentucky's November 10, 2016, SIP revision related to the Louisville Area's Stage II rule is consistent with the CAA and with EPA's regulations and guidance.

#### VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 15, 2017.

**V. Anne Heard,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2017-13858 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2017-0265; FRL-9964-44-Region 9]

### Approval and Promulgation of Air Quality State Implementation Plans; California; Ambient Ozone Monitoring Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a portion of a state implementation plan (SIP) submission from the State of California regarding Clean Air Act (CAA or “Act”) requirements for ambient ozone monitoring in the Bakersfield Metropolitan Statistical Area (MSA) for the 1997 ozone and 2008 ozone national ambient air quality standards (NAAQS or “standards”). The SIP submission is intended to revise a portion of the State’s “infrastructure” SIP that, more broadly, provides for implementation, maintenance, and enforcement of the standards. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by August 2, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0265 at <http://www.regulations.gov>, or via email to Rory Mays at [mays.rory@epa.gov](mailto:mays.rory@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, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Rory Mays, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3227, [mays.rory@epa.gov](mailto:mays.rory@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we”, “us” and “our” refer to the EPA.

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- II. Ozone Monitoring Evaluation and Proposed Action

### III. Statutory and Executive Order Reviews

#### I. Background

Section 110(a)(1) of the CAA requires states to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as the EPA may prescribe. Section 110(a)(2) requires states to address structural SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to provide for implementation, maintenance, and enforcement of the NAAQS. The SIP submission required by these provisions is referred to as the infrastructure SIP. Section 110(a) imposes the obligation upon states to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of individual state submissions may vary depending upon the facts and circumstances. This proposed rule pertains to infrastructure SIP requirements for ambient air quality monitoring.

Each of the NAAQS revisions applicable to this proposed rule triggered the requirement for states to submit infrastructure SIPs, including provisions for ambient ozone monitoring. On July 18, 1997, the EPA revised the form and levels of the primary and secondary ozone standards to an 8-hour average of 0.08 parts per million (ppm).<sup>1</sup> On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone standards to 0.075 ppm.<sup>2</sup> The EPA has issued guidance on infrastructure SIP requirements for the 2008 ozone and other NAAQS that informs the states’ development and the EPA’s evaluation of ambient ozone monitoring.<sup>3</sup>

Section 110(a)(2)(B) of the CAA requires states to provide for the establishment and operation of ambient air quality monitoring to (i) monitor, compile, and analyze data, and (ii) make data available to the EPA Administrator upon request. The EPA’s implementing regulations for ambient monitoring regulations for the various NAAQS are found in 40 CFR part 58. Among the requirements for ozone monitoring, 40 CFR part 58, Appendix D, 4.1(b) requires that “within an [ozone] network, at least one [ozone] site for each MSA, or [Combined Statistical Area (CSA)] if multiple MSAs are

<sup>1</sup> 62 FR 38856 (July 18, 1997).

<sup>2</sup> 73 FR 16436 (March 27, 2008).

<sup>3</sup> Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, EPA, “Guidance on Infrastructure State Implementation Plan Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),” September 13, 2013.

involved, must be designated to record the maximum concentration for that particular metropolitan area” and 40 CFR 58.14(b) requires that “modifications to the [State and Local Air Monitoring Station (SLAMS)] network for reasons other than those resulting from the periodic network assessments . . . must be reviewed and approved by the Regional Administrator.” The San Joaquin Valley nonattainment area for the 1997 ozone and 2008 ozone NAAQS includes several MSAs and one CSA. Generally, the highest ozone concentrations in the San Joaquin Valley have occurred in the central and southern portions of the nonattainment area, but in recent years, the highest ozone concentrations have occurred in the central portion of the valley (*i.e.*, within the Fresno CSA, which includes all of Fresno and Madera counties).

California made SIP submissions in 2007 and 2014 to, among other things, address the requirements of section 110(a)(2)(B) and the EPA’s implementing regulations for the 1997 ozone and 2008 ozone NAAQS. The EPA approved the submissions with respect to the ambient monitoring requirements with one exception:<sup>4</sup> we partially disapproved the submissions for CAA section 110(a)(2)(B) with respect to the 1997 ozone and 2008 ozone NAAQS for the Bakersfield MSA, which includes all of Kern County. Our partial disapproval was based on the closure of the MSA’s maximum ozone concentration site located at Arvin-Bear Mountain Blvd. (Air Quality System (AQS) ID: 06–029–5001),<sup>5</sup> without EPA approval of an alternative maximum ozone concentration site.

The EPA’s partial disapproval for ambient ozone monitoring established a deadline of May 2, 2018, for the EPA to promulgate a federal implementation plan (FIP) or for the State of California to submit, and the EPA to approve, an adequate SIP revision for this ozone monitoring deficiency for the 1997 ozone NAAQS.<sup>6</sup> With respect to the 2008 ozone NAAQS, the EPA’s partial disapproval explained that a prior FIP deadline of February 14, 2015, had been established by the EPA’s 2013 finding that California and other states had failed to submit infrastructure SIPs for

that NAAQS.<sup>7</sup> Regarding a lawsuit filed by the Sierra Club, in May 2017 the U.S. District Court for the Northern District of California entered a partial consent decree directing the EPA to, among other things, sign a final rule approving a SIP revision, promulgate a FIP, or a combination thereof for CAA section 110(a)(2)(B) for the Bakersfield MSA for the 2008 ozone NAAQS by December 15, 2017.<sup>8</sup> As discussed further in section II of this proposed rule, the EPA proposes that California has submitted a SIP revision that adequately resolves the underlying SIP deficiency with respect to monitoring in the Bakersfield MSA for both the 1997 and 2008 ozone NAAQS.

## II. Ozone Monitoring Evaluation and Proposed Action

The California Air Resources Board (CARB) submitted the “Staff Report, [C]ARB Review of the San Joaquin Valley 2016 Plan for the 2008 8-Hour Ozone Standard” (“2016 CARB Staff Report”) on August 24, 2016.<sup>9</sup> We found this submission to be complete on December 19, 2016.<sup>10</sup> We are proposing action only on the portions of the submission that address ambient ozone monitoring in the Bakersfield MSA pursuant to CAA section 110(a)(2)(B), and refer to those portions herein as the “2016 Bakersfield Ozone Monitoring SIP.”<sup>11</sup> We find that this submission meets the procedural requirements for public participation under CAA section 110(a)(2) and 40 CFR 51.102.

The 2016 Bakersfield Ozone Monitoring SIP notes that states must meet federal monitoring regulations as part of the CAA infrastructure requirements and refers to the EPA’s disapproval of the State’s infrastructure SIP for ozone monitoring in the Bakersfield MSA.<sup>12</sup> CARB states that it had operated an ozone monitor at the Arvin-Bear Mountain Blvd. site for 20 years and that this site had recorded the highest ozone concentrations in the Bakersfield MSA. Upon notification in 2009 that the site lease would not be renewed, CARB established a replacement site at Arvin’s Di Giorgio

elementary school (AQS ID: 06–029–5002). This ozone monitor site relocation had not been approved by the EPA at the time of the EPA’s 2014 partial disapproval of California’s 2007 and 2014 infrastructure SIPs. CARB states that the EPA has now approved the site relocation<sup>13</sup> and includes a copy of the letter as Appendix C to the 2016 CARB Staff Report.

We have reviewed the statements CARB made in its 2016 Bakersfield Ozone Monitoring SIP, the EPA’s 2016 approval letter, and CARB’s 2016 site relocation request.<sup>14</sup> Given the logistical constraints and factors considered by CARB, the EPA concluded that the Arvin Di Giorgio site provides the most similar concentrations from similar sources to the Arvin-Bear Mountain Blvd. site and fulfilled the federal regulatory requirement that such replacement site be nearby and have the same scale of representation. In addition, we found that CARB’s site relocation, as approved by the EPA consistent with 40 CFR 58.14, met the substantive requirements for site relocation under 40 CFR part 58 Appendix D, including the requirement under section 4.1(b) to designate a site to record the maximum ozone concentration in the Bakersfield MSA.

Since the underlying basis of the EPA’s 2014 disapproval has been adequately resolved (*i.e.*, approved site relocation for the maximum ozone concentration site in the Bakersfield MSA), we propose to approve the 2016 Bakersfield Ozone Monitoring SIP for CAA section 110(a)(2)(B) for the 1997 ozone and 2008 ozone NAAQS. We will accept comments from the public on these proposals for the next 30 days. The deadline and instructions for submission of comments are provided in the **DATES** and **ADDRESSES** sections at the beginning of this preamble.

In addition, the EPA previously approved an ozone emergency episode plan from El Dorado County APCD as meeting the requirements of CAA section 110(a)(2)(G) for the 1997 ozone and 2008 ozone NAAQS.<sup>15</sup> That action

<sup>7</sup> 78 FR 2882 (January 15, 2013).

<sup>8</sup> Partial consent decree in *Sierra Club v. EPA*, Case No. 3:15-cv-04328-JD (U.S. District Court for the Northern District of California), filed May 23, 2017, pp. 4–6.

<sup>9</sup> Letter from Richard W. Corey, Executive Officer, CARB to Alexis Strauss, Acting Regional Administrator, Region IX, EPA, August 24, 2016.

<sup>10</sup> Letter from Elizabeth Adams, Acting Director, Air Division, Region IX, EPA to Richard W. Corey, Executive Officer, CARB, December 19, 2016.

<sup>11</sup> 2016 CARB Staff Report, Section V.H (“Bakersfield Area Monitor”), p. 23 and Section VII (“Staff Recommendation”), p. 24.

<sup>12</sup> *Id.*

<sup>13</sup> Letter from Meredith Kurpius, Manager, Air Quality Analysis Office, Region IX, EPA to K. Magliano, Chief, Air Quality Planning and Science Division, CARB, May 2, 2016.

<sup>14</sup> Letter from K. Magliano, Chief, Air Quality Planning and Science Division, CARB to Meredith Kurpius, Manager, Air Quality Analysis Office, Region IX, EPA, April 29, 2016. This site relocation request noted that the Arvin-Bear Mountain Blvd. monitor operated for the 21 years and that the highest ozone concentrations in the Bakersfield MSA generally occurred at the Arvin-Bear Mountain Blvd. site or the neighboring Edison site (AQS ID 060290007). The ozone monitor at the Edison site continues to operate.

<sup>15</sup> 81 FR 47300 (July 21, 2016).

<sup>4</sup> 81 FR 18766 at 18772 (April 1, 2016). *See also*, “California Infrastructure SIP, Overarching Technical Support Document,” EPA, Region IX, September 2014, pp. 11–15.

<sup>5</sup> The EPA’s Air Quality System (AQS) contains ambient air pollution data collected by federal, state, local, and tribal air pollution control agencies from thousands of monitors. More information is available at: <https://www.epa.gov/aqs>.

<sup>6</sup> 81 FR 18766 at 18775 (April 1, 2016).

resolved a separate, partial disapproval from the EPA's 2016 rulemaking on California's 2007 and 2014 infrastructure SIPs. However, we inadvertently did not remove certain paragraphs from the California SIP that reflected the earlier disapproval. Thus, as an administrative matter, we intend to use this rulemaking to remove the obsolete paragraphs, specifically 40 CFR 52.223(i)(7) and 40 CFR 52.223(l)(7), from the California SIP.

### III. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

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

#### List of Subjects in 40 CFR Part 52

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

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

Dated: June 21, 2017.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2017-13860 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2012-0166; FRL-9964-34-Region 4]

#### Air Plan Approval; FL: Revisions to New Source Review, Definitions and Small Business Assistance Programs

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the Florida State Implementation Plan (SIP) to update definitions and make administrative edits to regulations for the Plantwide Applicability Limits and Florida's Small Business Assistance program. EPA is proposing to approve portions of a SIP revision submitted by the State of Florida, through the Florida Department of Environmental Protection on July 1, 2011, to update definitions and make administrative edits to Plantwide Applicability Limits and the Small Business Assistance program. This action is being taken pursuant to the Clean Air Act.

**DATES:** Written comments must be received on or before August 2, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0166 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets>.

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

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: June 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017-13861 Filed 6-30-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2017-0025; FRL-9964-23-Region 1]

#### Air Plan Approval; Rhode Island; Reasonably Available Control Technology for US Watercraft, LLC

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. The revision consists of a reasonably available control technology approval for a volatile organic compound emission source in Rhode Island, specifically, US Watercraft, LLC. This action is being taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before August 2, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2017-0025 at <https://www.regulations.gov>, or via email to [Mackintosh.David@epa.gov](mailto:Mackintosh.David@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, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** David L. Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100 (Mail code OEP05-2), Boston, MA 02109-3912, tel. 617-918-1584, email [Mackintosh.David@epa.gov](mailto:Mackintosh.David@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: June 7, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017-13906 Filed 6-30-17; 8:45 am]

BILLING CODE 6560-50-P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 28, 2017.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by August 2, 2017. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Agricultural Marketing Service

*Title:* Regulations for Voluntary Grading, Certification, and Standards—7 CFR part 54, 56, 62 and 70.

*OMB Control Number:* 0581–0128.

*Summary of Collection:* The Agricultural Marketing Act of 1946 (60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627) (AMA) directs and authorizes the Secretary of Agriculture to provide consumers with voluntary Federal grading and certification services that facilitate the marketing of agricultural commodities. The Quality Assessment Division (QAD) provides these services under the authority of 7 CFR parts 54, 56, and 70. The regulations provide a voluntary program for grading and certification services based on U.S. standards, grades, and weight classes to enable orderly marketing of the corresponding agricultural products. The regulation in 7 CFR part 62, Quality Systems Verification Programs (QSVP) is a collection of voluntary, audit-based, user-fee fund programs that allow applicants to have program documentation and program processes assessed by AMS auditor(s) and other USDA officials. This program is made available to respondents who would need to request or apply for the specific service they wish on a user fee-for-service basis.

AMS merged the Poultry Programs with the Livestock and Seed Program and it is now the Livestock, Poultry, and Seed (LPS) Program. With this renewal all PY forms will be changed to LPS.

*Need and Use of the Information:* Using forms LPS–109 (formerly PY–32), LPS–110 (formerly PY–100), LPS–157, LPS–240P, LPS–240S, LPS–210P, LPS–210S, LPS–234 and LPS–518–1, information is collected only from respondents who elect to utilize this voluntary user fee-for-service. Only authorized representatives of the USDA use the information collected. The information is used to administer,

conduct and carry out the grading services requested by the respondents. If the information were not collected, the agency would not be able to provide the voluntary grading services authorized and requested by Congress, provide the types of services requested by industry, administer the program, ensure properly grade-labeled products, calculate the cost of the service or collect for the cost furnishing service.

*Description of Respondents:* Business or other for profit, Farms.

*Number of Respondents:* 1,564.

*Frequency of Responses:* Reporting: On occasion; Semi-annually; Monthly; Annually; Other (daily).

*Total Burden Hours:* 10,785.

### Agricultural Marketing Service

*Title:* Generic Information Collection and Clearance of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 0581–0269.

*Summary of Collection:* Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. Improving Agricultural Marketing Service (AMS) programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program.

*Need and Use of the Information:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between AMS and its customers and stakeholders. It will also allow feedback



to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

*Description of Respondents:* Farms; Business or other for-profit; Not-for-profit Institutions and State, Local or Tribal Government.

*Number of Respondents:* 100,000.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 50,000.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2017-13976 Filed 6-30-17; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### Opportunity for Designation in the Essex, Illinois, Area; Request for Comments on the Official Agency Servicing This Area

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** The designation of the official agency listed below will end on December 31, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking

for comments on the quality of services provided by the following designated agency: Kankakee Grain Inspection, Inc. (Kankakee).

**DATES:** Applications and comments must be received by August 2, 2017.

**ADDRESSES:** Submit applications and comments concerning this notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline ([https://fgis.gipsa.usda.gov/default\\_home\\_FGIS.aspx](https://fgis.gipsa.usda.gov/default_home_FGIS.aspx)) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.

- *Submit Comments Using the Internet:* Go to *Regulations.gov* (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site.

- *Mail, Courier or Hand Delivery:* Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

- *Fax:* Jacob Thein, 816-872-1257.

- *Email:* [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

*Read Applications and Comments:* All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:**

Jacob Thein, 816-866-2223 or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 7(f) of the USGSA.

#### Areas Open for Designation

##### Kankakee

Pursuant to Section 7(f)(2) of the United States Grain Standards Act, the following geographic area in the State of Illinois is assigned to this official agency.

In Illinois

Bounded on the north by the northern Bureau County line; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast

to Interstate 57; bounded on the east by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the Kankakee County line; bounded on the south by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 west to the western Peoria County line; and bounded on the west by the western Peoria and Stark County lines; the northern Stark County line east to State Route 40; State Route 40 north to the Bureau County line.

#### Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in Illinois is for the period beginning January 1, 2018, to December 31, 2022. To apply for designation or to request more information, contact Jacob Thein at the address listed above.

#### Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Kankakee official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Jacob Thein at the above address or at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

**Authority:** 7 U.S.C. 71-87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017-13878 Filed 6-30-17; 8:45 am]

**BILLING CODE 3410-KD-P**



**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

**Designation for the Owensboro, Kentucky; Bloomington, Illinois; Sioux City, Iowa; Grand Forks, North Dakota; and Plainview, Texas, Areas**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.  
**ACTION:** Notice.

**SUMMARY:** GIPSA is announcing the designations of J.W. Barton Grain Inspection Service, Inc. (Barton); Central Illinois Grain Inspection, Inc. (Central Illinois); Sioux City Inspection and Weighing Service Company (Sioux City); Northern Plains Grain Inspection Service, Inc. (Northern Plains) and Plainview Grain Inspection and Weighing Service, Inc. (Plainview) to provide official services under the

United States Grain Standards Act (USGSA), as amended.  
**DATES:** Effective April 1, 2017.  
**ADDRESSES:** Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.  
**FOR FURTHER INFORMATION CONTACT:** Jacob Thein, (816) 866-2223, [Jacob.D.Thein@usda.gov](mailto:Jacob.D.Thein@usda.gov) or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**Read Applications:** All applications and comments are available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).  
**SUPPLEMENTARY INFORMATION:** In the March 22, 2017, **Federal Register** (82 FR 14676-14679), GIPSA requested applications for designation to provide official services in the geographic areas presently serviced by Barton, Central Illinois, Sioux City, Northern Plains, and Plainview. Applications were due by April 21, 2017.

The current official agencies, Barton, Central Illinois, Sioux City, Northern Plains, and Plainview, were the only applicants for designation to provide official services in these areas. As a result, GIPSA did not ask for additional comments.

GIPSA evaluated the designation criteria in section 7(f) of the USGSA (7 U.S.C. 79(f)) and determined that Barton, Central Illinois, Sioux City, Northern Plains, and Plainview are qualified to provide official services in the geographic areas specified in the **Federal Register** on March 22, 2017. These designations to provide official services in the specified areas of Barton, Central Illinois, Sioux City, Northern Plains, and Plainview are effective April 1, 2017, to March 31, 2022.

Interested persons may obtain official services by contacting this agency at the following telephone number:

Official agency	Headquarters location and telephone	Designation start	Designation end
Barton .....	Owensboro, KY, 270-683-0616 .....	4/1/2017	3/31/2022
Central Illinois .....	Bloomington, IL, 309-827-7121 .....	4/1/2017	3/31/2022
Sioux City .....	Sioux City, IA, 712-255-8073 .....	4/1/2017	3/31/2022
Northern Plains .....	Grand Forks, ND, 701-772-2414 .....	4/1/2017	3/31/2022
Plainview .....	Plainview, TX, 806-293-1364 .....	4/1/2017	3/31/2022

Section 7(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)).

**Randall D. Jones,**  
*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*  
 [FR Doc. 2017-13877 Filed 6-30-17; 8:45 am]  
**BILLING CODE 3410-KD-P**

**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

**Opportunity for Designation in the Savage, Minnesota, Area; Request for Comments on the Official Agency Servicing This Area**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.  
**ACTION:** Notice.

**SUMMARY:** The designation of the official agency listed below will end on December 31, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this

agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: State Grain Inspection, Inc. (State Grain).

**DATES:** Applications and comments must be received by August 2, 2017.  
**ADDRESSES:** Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline ([https://fgis.gipsa.usda.gov/default\\_home\\_FGIS.aspx](https://fgis.gipsa.usda.gov/default_home_FGIS.aspx)) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to [Regulations.gov](http://www.regulations.gov) (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Sharon Lathrop, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Sharon Lathrop, 816-872-1257.
- *Email:* [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**Read Applications and Comments:** All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:** Sharon Lathrop, (816) 891-0415 or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 7(f) of the USGSA.

**Areas Open for Designation**

*State Grain*

Pursuant to Section 7(f)(2) of the United States Grain Standards Act, the following geographic area in the State of Minnesota is assigned to this official agency.

In Minnesota

Hennepin, Ramsey, Washington, Carver, Scott, Dakota, Brown, Nicollet, Le Sueur, Rice, Goodhue, Watonwan, Blue Earth, Waseca, Steele, Dodge, McLeod, and Sibley Counties.

#### Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in Minnesota is for the period beginning January 1, 2018, to December 31, 2022. To apply for designation or to request more information, contact Sharon Lathrop at the address listed above.

#### Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the State Grain official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Sharon Lathrop at the above address or at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

**Authority:** 7 U.S.C. 71–87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017–13876 Filed 6–30–17; 8:45 am]

**BILLING CODE 3410-KD-P**

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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### Opportunity for Designation in the Washington Area; Request for Comments on the Official Agency Servicing This Area

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** The designation of the official agency listed below will end on December 31, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services

provided by the following designated agency: Washington Department of Agriculture (Washington).

**DATES:** Applications and comments must be received by August 2, 2017.

**ADDRESSES:** Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline ([https://fgis.gipsa.usda.gov/default\\_home\\_FGIS.aspx](https://fgis.gipsa.usda.gov/default_home_FGIS.aspx)) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.

- *Submit Comments Using the Internet:* Go to [Regulations.gov](http://www.regulations.gov) (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site.

- *Mail, Courier or Hand Delivery:* Sharon Lathrop, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

- *Fax:* Sharon Lathrop, 816–872–1257.

- *Email:* [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).  
*Read Applications and Comments:* All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:** Sharon Lathrop, (816) 891–0415 or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

#### Areas Open for Designation

*Washington*

Pursuant to Section 7(f)(2) of the United States Grain Standards Act, the following geographic areas in the States of Idaho, Oregon, and Washington are assigned to this official agency.

In Idaho

The northern half of the State of Idaho down to the northern boundaries of Adams, Valley, and Lemhi Counties.

In Oregon

The entire State of Oregon, except those export port locations within the State, which are serviced by GIPSA.

In Washington

The entire State of Washington, except those export port locations within the State, which are serviced by Washington.

#### Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas in Idaho, Oregon, and Washington is for the period beginning January 1, 2018, to December 31, 2022. To apply for designation or to request more information, contact Sharon Lathrop at the address listed above.

#### Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Washington official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Sharon Lathrop at the above address or at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

**Authority:** 7 U.S.C. 71–87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017–13879 Filed 6–30–17; 8:45 am]

**BILLING CODE 3410-KD-P**

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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### Notice of Intent To Certify Washington State Department of Agriculture (Washington); Request for Comments

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** We are asking for comments on the quality of services provided by this Delegated State: Washington State Department of Agriculture (Washington).

**DATES:** Comments must be received by August 2, 2017.

**ADDRESSES:** Submit comments concerning this notice using any of the following methods:

- *Submit Comments Using the Internet:* Go to *Regulations.gov* (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site.

- *Mail, Courier or Hand Delivery:* Sharon Lathrop, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

- *Fax:* Sharon Lathrop, 816-872-1257.

- *Email:* [Sharon.L.Lathrop@usda.gov](mailto:Sharon.L.Lathrop@usda.gov) or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

*Read Comments:* All comments are available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:**

Sharon Lathrop, (816) 891-0415, [Sharon.L.Lathrop@usda.gov](mailto:Sharon.L.Lathrop@usda.gov) or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 79(e)(2)(A) of the United States Grain Standards Act (USGSA) designates that if the Secretary determines, pursuant to paragraph (3) of Section 79(e), that a State agency is qualified to perform official inspection, meets the criteria in subsection (f)(1)(A) of Section 79, and (i) was performing official inspection at an export port location under this chapter on July 1, 1976, or (ii)(I) performed official inspection at an export port location at any time prior to July 1, 1976, (II) was designated under subsection (f) of Section 79 on December 22, 1982, to perform official inspections at locations other than export port locations, and (III) operates in a State from which total annual exports do not exceed, as determined by the Secretary, five per centum of the total amount of grain exported from the United States annually, the Secretary may delegate authority to the State agency to perform all or specified functions involving official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as the Secretary may prescribe, and any such official inspection shall continue to be the direct responsibility of the Secretary. Any such delegation may be revoked by the Secretary, at the discretion of the Secretary, at any time upon notice to the State agency without opportunity for a hearing. Under Section 79(e) of the USGSA, every 5 years, the Secretary

shall certify that each State agency with a delegation of authority is meeting the criteria described in subsection (f)(1)(A). Delegations shall be renewed according to the criteria and procedures set forth in Section 79(e)(2)(B) of the USGSA.

**Area of Delegation**

*Washington*

Pursuant to Section 79(e)(2) of the USGSA, the following export port locations in the State of Washington are assigned to this State agency.

In Washington

All export port locations in the State of Washington.

**Request for Comments**

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the State of Washington. We are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the delegation of the applicant. Submit all comments to Sharon Lathrop at the above address or at <http://www.regulations.gov>.

We consider comments and other available information when determining certification.

**Authority:** 7 U.S.C. 71-87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017-13880 Filed 6-30-17; 8:45 am]

**BILLING CODE 3410-KD-P**

**DEPARTMENT OF AGRICULTURE**

**Grain Inspection, Packers and Stockyards Administration**

**Opportunity for Designation in the Alabama Area; Request for Comments on the Official Agency Servicing This Area**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** The designation of the official agency listed below will end on December 31, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: Alabama Department of Agriculture and Industries (Alabama).

**DATES:** Applications and comments must be received by August 2, 2017.

**ADDRESSES:** Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline ([https://fgis.gipsa.usda.gov/default\\_home\\_FGIS.aspx](https://fgis.gipsa.usda.gov/default_home_FGIS.aspx)) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.

- *Submit Comments Using the Internet:* Go to *Regulations.gov* (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site.

- *Mail, Courier or Hand Delivery:* Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

- *Fax:* Jacob Thein, 816-872-1257.

- *Email:* [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

*Read Applications and Comments:* All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:**

Jacob Thein, 816-866-2223 or [FGIS.QACD@usda.gov](mailto:FGIS.QACD@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

**Areas Open for Designation**

*State of Alabama*

Pursuant to Section 7(f)(2) of the United States Grain Standards Act, the following geographic area in the State of Alabama is assigned to this official agency.

In Alabama

The entire State, except those export port locations within the State, which are serviced by Alabama.

**Opportunity for Designation**

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under

the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in Alabama is for the period beginning January 1, 2018, to December 31, 2022. To apply for designation or to request more information, contact Jacob Thein at the address listed above.

#### Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Alabama official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Jacob Thein at the above address or at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

**Authority:** 7 U.S.C. 71–87k.

**Randall D. Jones,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2017–13873 Filed 6–30–17; 8:45 am]

**BILLING CODE 3410-KD-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B–42–2017]

#### Foreign-Trade Zone (FTZ) 122—Corpus Christi, Texas; Notification of Proposed Production Activity; voestalpine Texas, LLC; (Hot Briquetted Iron and By-Products); Portland, Texas

The Port of Corpus Christi Authority, grantee of FTZ 122, submitted a notification of proposed production activity to the FTZ Board on behalf of voestalpine Texas, LLC (voestalpine), located in Portland, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 12, 2017.

voestalpine already has authority to produce hot briquetted iron (HBI) and related by-products using certain foreign-status materials within Subzone 122T. The current request would add a finished product and foreign-status materials to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and specific finished product described in the submitted notification

(as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt voestalpine from customs duty payments on the foreign-status materials used in export production. On its domestic sales, voestalpine would be able to choose the duty rates during customs entry procedures that apply to HBI fines (duty-free) for the foreign-status materials noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include direct reduction iron remelt and HBI fines (duty-free).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 14, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the “Reading Room” section of the FTZ Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Diane Finver at [Diane.Finver@trade.gov](mailto:Diane.Finver@trade.gov) or (202) 482–1367.

Dated: June 27, 2017.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2017–13943 Filed 6–30–17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[S–88–2017]

#### Foreign-Trade Zone 127—West Columbia, South Carolina; Application for Subzone; BGM America, Inc.; Marion, South Carolina

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Richland-Lexington Airport District, grantee of FTZ 127, requesting subzone status for the facility of BGM America, Inc., located in Marion, South Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 13, 2017.

The proposed subzone would consist of the following site: 1313 West

Highway 76, Marion (40 acres). No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 127.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 14, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 28, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the “Reading Room” section of the FTZ Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Qahira El-Amin at [Qahira.El-Amin@trade.gov](mailto:Qahira.El-Amin@trade.gov) or (202) 482–5928.

Dated: June 27, 2017.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2017–13944 Filed 6–30–17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B–44–2017]

#### Foreign-Trade Zone (FTZ) 265—Conroe, Texas; Notification of Proposed Production Activity; Bauer Manufacturing LLC dba NEORig (Stationary Oil/Gas Drilling Rigs); Conroe, Texas

The City of Conroe, grantee of FTZ 265, submitted a notification of proposed production activity to the FTZ Board on behalf of Bauer Manufacturing LLC dba NEORig (Bauer), located in Conroe, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 5, 2017.

Bauer already has authority to produce pile drivers and leads, boring machinery, foundation construction equipment, foundation casings and related parts and sub-assemblies, tools and accessories for pile drivers, and

stationary oil/gas drilling rigs and related subassemblies within Site 1 of FTZ 265. The current request would add a foreign status material/component to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material/component described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Bauer from customs duty payments on the foreign-status material/component used in export production. On its domestic sales, for the foreign-status material/component noted below Bauer would be able to choose the duty rates during customs entry procedures that apply to the company's finished products previously approved by the FTZ Board (duty rate ranges from duty-free to 5%). Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material/component sourced from abroad is: Hydraulic roughneck (duty-free).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 14, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Elizabeth Whiteman at [Elizabeth.Whiteman@trade.gov](mailto:Elizabeth.Whiteman@trade.gov) or (202) 482-0473.

Dated: June 27, 2017.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2017-13945 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on July 25, 2017, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW.,

Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

#### Agenda

##### Public Session

1. Welcome and Introductions
2. Remarks From the Bureau of Industry and Security Management
3. Industry Presentations
4. New Business

##### Closed Session

5. Discussion of Matters Determined to be Exempt From the Provisions Relating to Public Meetings Found in 5 U.S.C. App. 2 §§ 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than July 18, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 12, 2017 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482-2813.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2017-13870 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on August 8, 2017, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

#### Agenda

##### Open Session:

1. Opening remarks and introductions.
2. Presentation of papers and comments by the Public.
3. Discussions on results from last, and proposals from last Wassenaar meeting.
4. Report on proposed and recently issued changes to the Export Administration Regulations.
5. Other business.

##### Closed Session:

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov), no later than August 1, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with

matters the premature disclosure of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2017-13874 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-JT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Order Renewing Order Temporarily Denying Export Privileges

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran

Pejman Mahmood Kosarayanifard a/k/a Kosarian Fard, P.O. Box 52404, Dubai, United Arab Emirates;

Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates

and  
P.O. Box 52404, Dubai, United Arab Emirates

and  
Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;

Kerman Aviation a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France  
Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates

Ali Eslamian, 33 Cavendish Square, 4th Floor, London, W1G0PW, United Kingdom

and  
2 Bentinck Close, Prince Albert Road, St. Johns Wood, London NW87RY, United Kingdom

Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates

Skyco (UK) Ltd., 33 Cavendish Square, 4th Floor, London, W1G 0PV, United Kingdom

Equipco (UK) Ltd., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom

Mehdi Bahrami, Mahan Airways—Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6. 34374 Emadad, Sisli Istanbul, Turkey

Al Naser Airlines a/k/a al-Naser Airlines a/k/a Alnaser Airlines and Air Freight Ltd., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiry Private Hospital, Baghdad, Iraq

and  
Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq

and  
P.O. Box 28360, Dubai, United Arab Emirates

and  
P.O. Box 911399, Amman 11191, Jordan

Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiry Private Hospital, Baghdad, Iraq

and  
Anak Street, Qatif, Saudi Arabia 61177  
Bahar Safwa General Trading, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates

and  
P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates  
Sky Blue Bird Group a/k/a Sky Blue Bird Aviation a/k/a Sky Blue Bird Ltd a/k/a Sky Blue Bird FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates

Emirates  
Issam Shammout a/k/a Muhammad Isam Muhammad Anwar Nur Shammout a/k/a Issam Anwar, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria

and  
Al Kolaa, Beirut, Lebanon 151515

and  
17-18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom

and  
Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No. 14/A Silivri, Istanbul, Turkey

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730-774 (2016) (“EAR” or the “Regulations”),<sup>1</sup> I hereby grant the request of the Office of Export Enforcement (“OEE”) to renew the December 30, 2016 Temporary Denial Order (the “TDO”). The December 30, 2016 Order denied the export privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Al Naser Airlines, Ali Abdullah Alhay, Bahar Safwa General Trading, Sky Blue Bird Group, and Issam Shammout.<sup>2</sup> I find that renewal of the TDO is necessary in the public interest to prevent an imminent violation of the EAR.

#### I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (“Assistant Secretary”), signed a TDO denying Mahan Airways’ export

<sup>1</sup> The Regulations, currently codified at 15 CFR parts 730-774 (2017), originally issued pursuant to the Export Administration Act of 1979. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,58748,223 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

<sup>2</sup> See note 3, *infra*.

privileges for a period of 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations. The TDO also named as denied persons Blue Airways, of Yerevan, Armenia (“Blue Airways of Armenia”), as well as the “Balli Group Respondents,” namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

The TDO subsequently has been renewed in accordance with Section 766.24(d), including most recently on December 30, 2016.<sup>3</sup> As of March 9, 2010, the Balli Group Respondents and Blue Airways were no longer subject to the TDO. As part of the February 25, 2011 TDO renewal, Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services), Mahmood Amini, and Pejman Mahmood Kosarayanifard (“Kosarian Fard”) were added as related persons in accordance with Section 766.23 of the Regulations.<sup>4</sup> On July 1, 2011, the TDO was modified by adding Zarand Aviation as a respondent in order to prevent an imminent violation.<sup>5</sup> As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali

<sup>3</sup> The December 30, 2016 Order was published in the **Federal Register** on January 9, 2017 (82 FR 2312). July 13, 2016 (81 FR 45276). The TDO previously had been renewed on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014, July 22, 2014, January 16, 2015, July 13, 2015, January 7, 2016, July 7, 2016, and December 30, 2016. The August 24, 2011 renewal followed the modification of the TDO on July 1, 2011, which added Zarand Aviation as a respondent. The July 13, 2015 renewal followed the modification of the TDO on May 21, 2015, which added Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Each renewal or modification order was published in the **Federal Register**.

<sup>4</sup> On August 13, 2014, BIS and Gatewick LLC resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period are active, with the remaining five years suspended on condition that Gatewick LLC pays the civil penalty in full and timely fashion and commits no further violation of the Regulations during the seven-year denial period. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. See 79 FR 49283 (Aug. 20, 2014).

<sup>5</sup> As of July 22, 2014, Zarand Aviation was no longer subject to the TDO.

Eslamian were added to the TDO as related persons. Mahan Air General Trading LLC, Skyco (UK) Ltd., and Equipco (UK) Ltd. were added as related persons on April 9, 2012. Mehdi Bahrami was added to the TDO as a related person as part of the February 4, 2013 renewal order.

On May 21, 2015, the TDO was modified to add Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Sky Blue Bird Group and its chief executive officer Issam Shammout were added to the TDO as related persons as part of the July 13, 2015 renewal order.<sup>6</sup>

On June 5, 2017, BIS, through its Office of Export Enforcement (“OEE”), submitted a written request for renewal of the TDO. The written request was made more than 20 days before the scheduled expiration of the current TDO, which issued on December 30, 2016. Notice of the renewal request also was provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received. Furthermore, no appeal of the related person determinations made as part of the September 3, 2010, February 25, 2011, August 24, 2011, April 9, 2012, February 4, 2013, and July 13, 2015 renewal or modification orders has been made by Kosarian Fard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Sky Blue Bird Group, or Issam Shammout.<sup>7</sup>

## II. Renewal of the TDO

### A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent’s export privileges upon a showing that the order is necessary in the public interest to prevent an “imminent violation” of the Regulations. 15 CFR 766.24(b)(1) and 776.24(d). “A violation may be ‘imminent’ either in time or degree of likelihood.” 15 CFR 766.24(b)(3). BIS may show “either that a violation is

about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.” *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge “is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]” *Id.* A “lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.” *Id.*

### B. The TDO and BIS’s Request for Renewal

OEE’s request for renewal is based upon the facts underlying the issuance of the initial TDO and the TDO renewals in this matter and the evidence developed over the course of this investigation indicating a blatant disregard of U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s (“Aircraft 1–3”), items subject to the EAR and classified under Export Control Classification Number (“ECCN”) 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s (“Aircraft 4–6”) to Iran.

As discussed in the September 17, 2008 renewal order, evidence presented by BIS indicated that Aircraft 1–3 continued to be flown on Mahan Airways’ routes after issuance of the TDO, in violation of the Regulations and the TDO itself.<sup>8</sup> It also showed that Aircraft 1–3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. Moreover, as discussed in the March 16, 2009, September 11, 2009 and March 9, 2010 Renewal Orders, Mahan Airways registered Aircraft 1–3 in Iran, obtained Iranian tail numbers for them (EP–MNA, EP–MNB, and EP–MNE, respectively), and continued to operate at least two of them in violation of the Regulations and the TDO,<sup>9</sup> while also committing an

additional knowing and willful violation when it negotiated for and acquired an additional U.S.-origin aircraft. The additional acquired aircraft was an MD–82 aircraft, which subsequently was painted in Mahan Airways’ livery and flown on multiple Mahan Airways’ routes under tail number TC–TUA.

The March 9, 2010 Renewal Order also noted that a court in the United Kingdom (“U.K.”) had found Mahan Airways in contempt of court on February 1, 2010, for failing to comply with that court’s December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents had been litigating before the U.K. court concerning ownership and control of Aircraft 1–3. In a letter to the U.K. court dated January 12, 2010, Mahan Airways’ Chairman indicated, *inter alia*, that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had 158,000 “forward bookings” for these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 renewal order discussed the fact that Mahan Airways’ violations of the TDO extended beyond operating U.S.-origin aircraft and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the United Arab Emirates (“UAE”), in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways’ violations were facilitated by Gatewick LLC, which not only participated in the transaction, but also has stated to BIS that it acted as Mahan Airways’ sole booking agent for cargo and freight forwarding services in the UAE.

Moreover, in a January 24, 2011 filing in the U.K. court, Mahan Airways asserted that Aircraft 1–3 were not being used, but stated in pertinent part that the aircraft were being maintained in Iran especially “in an airworthy condition” and that, depending on the outcome of its U.K. court appeal, the aircraft “could immediately go back into service . . . on international routes into and out of Iran.” Mahan Airways’ January 24, 2011 submission to U.K. Court of Appeal, at p. 25, ¶¶ 108, 110.

<sup>6</sup>The U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) designated Sky Blue Bird and Issam Shammout as Specially Designated Global Terrorists (“SDGTs”) on May 21, 2015, pursuant to Executive Order 13324, for “providing support to Iran’s Mahan Air.” See 80 FR 30762 (May 29, 2015).

<sup>7</sup>A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c).

<sup>8</sup>Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

<sup>9</sup>The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 renewal order.



This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrated the need to renew the TDO in order to prevent imminent future violations. Two of these three 747s subsequently were removed from Iran and are no longer in Mahan Airways' possession. The third of these 747s, with Manufacturer's Serial Number ("MSN") 23480 and Iranian tail number EP-MNE, remained in Iran under Mahan's control. Pursuant to Executive Order 13324, it was designated a Specially Designated Global Terrorist ("SDGT") by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") on September 19, 2012.<sup>10</sup> Furthermore, as discussed in the February 4, 2013 Order, open source information indicated that this 747, painted in the livery and logo of Mahan Airways, had been flown between Iran and Syria, and was suspected of ferrying weapons and/or other equipment to the Syrian Government from Iran's Islamic Revolutionary Guard Corps. Open source information showed that this aircraft had flown from Iran to Syria as recently as June 30, 2013, and continues to show that it remains in active operation in Mahan Airways' fleet.

In addition, as first detailed in the July 1, 2011 and August 24, 2011 orders, and discussed in subsequent renewal orders in this matter, Mahan Airways also continued to evade U.S. export control laws by operating two Airbus A310 aircraft, bearing Mahan Airways' livery and logo, on flights into and out of Iran.<sup>11</sup> At the time of the July 1, 2011 and August 24, 2011 Orders, these Airbus A310s were registered in France, with tail numbers F-OJHH and F-OJHI, respectively.<sup>12</sup>

<sup>10</sup> See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx>.

<sup>11</sup> The Airbus A310s are powered with U.S.-origin engines. The engines are subject to the EAR and classified under Export Control Classification ("ECCN") 9A991.d. The Airbus A310s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>12</sup> OEE subsequently presented evidence that after the August 24, 2011 renewal, Mahan Airways worked along with Kerman Aviation and others to de-register the two Airbus A310 aircraft in France and to register both aircraft in Iran (with, respectively, Iranian tail numbers EP-MHH and EP-MHI). It was determined subsequent to the February 15, 2012 renewal order that the registration switch for these A310s was cancelled and that Mahan Airways then continued to fly the aircraft under the original French tail numbers (F-OJHH and F-OJHI, respectively). Both aircraft apparently remain in Mahan Airways' possession.

The August 2012 renewal order also found that Mahan Airways had acquired another Airbus A310 aircraft subject to the Regulations, with MSN 499 and Iranian tail number EP-VIP, in violation of the TDO and the Regulations.<sup>13</sup> On September 19, 2012, all three Airbus A310 aircraft (tail numbers F-OJHH, F-OJHI, and EP-VIP) were designated as SDGTs.<sup>14</sup>

The February 4, 2013 Order laid out further evidence of continued and additional efforts by Mahan Airways and other persons acting in concert with Mahan, including Kral Aviation and another Turkish company, to procure U.S.-origin engines—two GE CF6-50C2 engines, with MSNs 517621 and 517738, respectively—and other aircraft parts in violation of the TDO and the Regulations.<sup>15</sup> The February 4, 2013 renewal order also added Mehdi Bahrami as a related person in accordance with Section 766.23 of the Regulations. Bahrami, a Mahan Vice-President and the head of Mahan's Istanbul Office, also was involved in Mahan's acquisition of the original three Boeing 747s (Aircraft 1-3) that resulted in the original TDO, and has had a business relationship with Mahan dating back to 1997.

The July 31, 2013 Order detailed additional evidence obtained by OEE showing efforts by Mahan Airways to obtain another GE CF6-50C2 aircraft engine (MSN 528350) from the United States via Turkey. Multiple Mahan employees, including Mehdi Bahrami, were involved in or aware of matters related to the engine's arrival in Turkey from the United States, plans to visually

<sup>13</sup> See note 12, *supra*.

<sup>14</sup> See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx>. Mahan Airways was previously designated by OFAC as a SDGT on October 18, 2011. 77 FR 64,427 (October 18, 2011).

<sup>15</sup> Kral Aviation was referenced in the February 4, 2013 Order as "Turkish Company No. 1." Kral Aviation purchased a GE CF6-50C2 aircraft engine (MSN 517621) from the United States in July 2012, on behalf of Mahan Airways. OEE was able to prevent this engine from reaching Mahan by issuing a redelivery order to the freight forwarder in accordance with Section 758.8 of the Regulations. OEE also issued Kral Aviation a redelivery order for the second CF6-50C2 engine (MSN 517738) on July 30, 2012. The owner of the second engine subsequently cancelled the item's sale to Kral Aviation. In September 2012, OEE was alerted by a U.S. exporter that another Turkish company ("Turkish Company No. 2") was attempting to purchase aircraft spare parts intended for re-export by Turkish Company No. 2 to Mahan Airways. See February 4, 2013 Order.

On December 31, 2013, Kral Aviation was added to BIS's Entity List, Supplement No. 4 to Part 744 of the Regulations. See 78 FR 75458 (Dec. 12, 2013). Companies and individuals are added to the Entity List for engaging in activities contrary to the national security or foreign policy interests of the United States. See 15 CFR 744.11.

inspect the engine, and prepare it for shipment from Turkey.

Mahan sought to obtain this U.S.-origin engine through Pioneer Logistics Havacilik Turizm Yonetim Danismanlik ("Pioneer Logistics"), an aircraft parts supplier located in Turkey, and its director/operator, Gulnihal Yegane, a Turkish national who previously had conducted Mahan related business with Mehdi Bahrami and Ali Eslamian. Moreover, as referenced in the July 31, 2013 Order, a sworn affidavit by Kosol Surinanda, also known as Kosol Surinandha, Managing Director of Mahan's General Sales Agent in Thailand, stated that the shares of Pioneer Logistics for which he was the listed owner were "actually the property of and owned by Mahan." He further stated that he held "legal title to the shares until otherwise required by Mahan" but would "exercise the rights granted to [him] exactly and only as instructed by Mahan and [his] vote and/or decisions [would] only and exclusively reflect the wills and demands of Mahan[.]"<sup>16</sup>

The January 24, 2014 Order outlined OEE's continued investigation of Mahan Airways' activities and detailed an attempt by Mahan, which OEE thwarted, to obtain, via an Indonesian aircraft parts supplier, two U.S.-origin Honeywell ALF-502R-5 aircraft engines (MSNs LF5660 and LF5325), items subject to the Regulations, from a U.S. company located in Texas. An invoice of the Indonesian aircraft parts supplier dated March 27, 2013, listed Mahan Airways as the purchaser of the engines and included a Mahan ship-to address. OEE also obtained a Mahan air waybill dated March 12, 2013, listing numerous U.S.-origin aircraft parts subject to the Regulations—including, among other items, a vertical navigation gyroscope, a transmitter, and a power control unit—being transported by Mahan from Turkey to Iran in violation of the TDO.

The July 22, 2014 Order discussed open source evidence from the March-June 2014 time period regarding two BAE regional jets, items subject to the Regulations, that were painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP-MOK and EP-MOI, respectively.<sup>17</sup>

<sup>16</sup> Pioneer Logistics, Gulnihal Yegane, and Kosol Surinanda also were added to the Entity List on December 12, 2013. See 78 FR 75458 (Dec. 12, 2013).

<sup>17</sup> The BAE regional jets are powered with U.S.-origin engines. The engines are subject to the EAR and classified under ECCN 9A991.d. These aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or



In addition, aviation industry resources indicated that these aircraft were obtained by Mahan Airways in late November 2013 and June 2014, from Ukrainian Mediterranean Airline, a Ukrainian airline that was added to BIS's Entity List (Supplement No. 4 to Part 744 of the Regulations) on August 15, 2011, for acting contrary to the national security and foreign policy interests of the United States.<sup>18</sup> OEE's on-going investigation indicates that both BAE regional jets remain active in Mahan's fleet, with open source information showing EP-MOI being used on flights into and out of Iran as recently as January 12, 2015. The continued operation of these aircraft by Mahan Airways violates the TDO.

The January 16, 2015 Order detailed evidence of additional attempts by Mahan Airways to acquire items subject to the Regulations in further violation of the TDO. Specifically, in March 2014, OEE became aware of an inertial reference unit bearing serial number 1231 ("the IRU") that had been sent to the United States for repair. The IRU is subject to the Regulations, classified under ECCN 7A103, and controlled for missile technology reasons. Upon closer inspection, it was determined that IRU came from or had been installed on an Airbus A340 aircraft bearing MSN 056. Further investigation revealed that as of approximately February 2014, this aircraft was registered under Iranian tail number EP-MMB and had been painted in the livery and logo of Mahan Airways.

The January 16, 2015 Order also described related efforts by the Departments of Justice and Treasury to further thwart Mahan's illicit procurement efforts. Specifically, on August 14, 2014, the United States Attorney's Office for the District of Maryland filed a civil forfeiture complaint for the IRU pursuant to 22 U.S.C. 401(b) that resulted in the court issuing an Order of Forfeiture on December 2, 2014. EP-MMB remains listed as active in Mahan Airways' fleet.

reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>18</sup> See 76 FR 50407 (Aug. 15, 2011). The July 22, 2014 TDO renewal order also referenced two Airbus A320 aircraft painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP-MMK and EP-MML, respectively. OEE's investigation also showed that Mahan obtained these aircraft in November 2013, from Khors Air Company, another Ukrainian airline that, like Ukrainian Mediterranean Airlines, was added to BIS's Entity List on August 15, 2011. Open source evidence indicates the two Airbus A320 aircraft may be transferred by Mahan Airways to another Iranian airline in October 2014, and issued Iranian tail numbers EP-APE and EP-APF, respectively.

Additionally, on August 29, 2014, OFAC blocked the property and interests in property of Asian Aviation Logistics of Thailand, a Mahan Airways affiliate or front company, pursuant to Executive Order 13224. In doing so, OFAC described Mahan Airways' use of Asian Aviation Logistics to evade sanctions by making payments on behalf of Mahan for the purchase of engines and other equipment.<sup>19</sup>

The May 21, 2015 modification order detailed the acquisition of two aircraft, specifically an Airbus A340 bearing MSN 164 and an Airbus A321 bearing MSN 550, that were purchased by Al Naser Airlines in late 2014/early 2015 and are currently located in Iran under the possession, control, and/or ownership of Mahan Airways.<sup>20</sup> The sales agreements for these two aircraft were signed by Ali Abdullah Alhay for Al Naser Airlines.<sup>21</sup> Payment information reveals that multiple electronic funds transfers ("EFT") were made by Ali Abdullah Alhay and Bahar Safwa General Trading in order to acquire MSNs 164 and 550.

The May 21, 2015 modification order also laid out evidence showing the respondents' attempts to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period. Transactional documents involving two Airbus A320s bearing MSNs 82 and 99, respectively, again showed Ali Abdullah Alhay signing sales agreements for Al Naser Airlines.<sup>22</sup> A

<sup>19</sup> See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx>. See 79 FR 55073 (Sep. 15, 2014). OFAC also blocked the property and property interests of Pioneer Logistics of Turkey on August 29, 2014. *Id.* Mahan Airways' use of Pioneer Logistics in an effort to evade the TDO and the Regulations was discussed in a prior renewal order, as summarized, *supra*, at 13–14. BIS added both Asian Aviation Logistics and Pioneer Logistics to the Entity List on December 12, 2013. See 78 FR 75458 (Dec. 12, 2013).

<sup>20</sup> Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. Both aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>21</sup> Ali Abdullah Alhay is a 25% owner of Al Naser Airlines.

<sup>22</sup> Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number ECCN 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a

review of the payment information for these aircraft similarly revealed EFTs from Ali Abdullah Alhay and Bahar Safwa General Trading that follow the pattern described for MSNs 164 and 550, *supra*. MSNs 82 and 99 were detained by OEE Special Agents prior to their planned export from the United States.

The July 13, 2015 Order outlined evidence showing that Al Naser Airlines' attempts to acquire aircraft on behalf of Mahan Airways extended beyond MSNs 164 and 550 to include a total of nine aircraft.<sup>23</sup> Four of the aircraft, all of which are subject to the Regulations and were obtained by Mahan from Al Naser Airlines, had been issued the following Iranian tail numbers: EP-MMD (MSN 164), EP-MMG (MSN 383), EP-MMH (MSN 391) and EP-MMR (MSN 416), respectively.<sup>24</sup> Publicly available flight tracking information provided evidence that at the time of the July 13, 2015 renewal, both EP-MMH and EP-MMR were being actively flown on routes into and out of Iran in violation of the TDO and Regulations.<sup>25</sup>

The January 7, 2016 Order discussed evidence that Mahan Airways had begun actively flying EP-MMD, another

result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>23</sup> This evidence included a press release dated May 9, 2015, that appeared on Mahan Airways' Web site and stated that Mahan "added 9 modern aircraft to its air fleet [,]" and that the newly acquired aircraft included eight Airbus A340s and one Airbus A321. See <http://www.mahan.aero/en/mahan-air/press-room/44>. The press release was subsequently removed from Mahan Airways' Web site. Publicly available aviation databases similarly showed that Mahan had obtained nine additional aircraft from Al Naser Airlines in May 2015, including MSNs 164 and 550. As also discussed in the July 13, 2015 renewal order, Sky Blue Bird Group, via Issam Shammout, was actively involved in Al Naser Airlines' acquisition of MSNs 164 and 550, and the attempted acquisition of MSNs 82 and 99 (which were detained by OEE).

<sup>24</sup> The Airbus A340s are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>25</sup> There is some publicly available information indicating that the aircraft Mahan Airways is flying under Iranian tail number EP-MMR is now MSN 615, rather than MSN 416. Both aircraft are Airbus A340 aircraft that Mahan acquired from Al Naser Airlines in violation of the TDO and the Regulations. Moreover, both aircraft were designated as SDGTs by OFAC on May 21, 2015, pursuant to Executive Order 13324. See 80 FR 30762 (May 29, 2015).

of the aircraft Mahan had obtained from Al Naser Airlines (as discussed in the July 13, 2015 renewal order), on international routes into and out of Iran, including from/to Bangkok, Thailand. Additionally, the January 7, 2016 Order described publicly available aviation database and flight tracking information indicating that Mahan Airways was continuing its efforts to acquire Iranian tail numbers and press into active service under Mahan's livery and logo at least two more of the Airbus A340 aircraft it had obtained from or through Al Naser Airlines: EP-MME (MSN 371) and EP-MMF (MSN 376), respectively. Since January 2016, EP-MME has logged flights to and from Tehran, Iran involving various destinations, including Guangzhou, China, and Dubai, United Arab Emirates in further violation of the TDO and the Regulations.

The July 7, 2016 Order described Mahan Airways' acquisition of a BAE Avro RJ-85 aircraft (MSN E2392) in violation of the TDO and its subsequent registration under Iranian tail number EP-MOR.<sup>26</sup> This information was corroborated by publicly available information on the Web site of Iran's civil aviation authority. The July 7, 2016 Order also outlined Mahan's continued operation of EP-MMF in violation of the TDO on routes from Tehran Iran to Beijing, China and Shanghai, China, respectively.

The December 30, 2016 Order outlined Mahan's continued operation of multiple Airbus aircraft, including EP-MMD (MSN 164), EP-MMF (MSN 376), and EP-MMH (MSN 391), which were acquired from or through Al Naser Airlines in violation of the TDO as previously detailed in the July 13, 2015 and January 7, 2016 renewal orders, respectively. Publicly available flight tracking information showed that the aircraft were operated on flights into and out of Iran, including from/to Beijing, China, Kuala Lumpur, Malaysia, and Istanbul, Turkey.<sup>27</sup>

<sup>26</sup> The BAE Avro RJ-85 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The BAE Avro RJ-85 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the EAR regardless of its location. The aircraft is classified under ECCN 9A991.b, and its export or re-export to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

<sup>27</sup> Specifically, on December 22, 2016, EP-MMD (MSN 164) flew from Dubai, UAE to Tehran, Iran. Between December 20 and December 22, 2016, EP-MMF (MSN 376) flew on routes from Tehran, Iran to Beijing, China and Istanbul, Turkey, respectively. Between December 26 and December 28, 2016, EP-MMH (MSN 391) flew on routes from Tehran, Iran to Kuala Lumpur, Malaysia.

OEE's June 5, 2017 renewal request includes similar evidence regarding Mahan's continuing violation of the TDO by operating multiple Airbus aircraft subject to the Regulations, including, but not limited to, aircraft procured from or through Al Naser Airlines, on flights into and out of Iran, including from/to Moscow, Russia, Shanghai, China and Kabul, Afghanistan.<sup>28</sup>

OEE has also obtained additional information regarding the suspected diversion of an Airbus A340 that was first mentioned in its December 13, 2016 renewal request. This aircraft had been located and registered in the United States under tail number N278TA and was subject to the Regulations. At the time the December 30, 2016 renewal order was issued, this aircraft had been exported from the United States to Indonesia contrary to filings made with the U.S. Federal Aviation Administration ("FAA"). These filings with the FAA inaccurately indicated, first, that the aircraft was being flown to Almaty, Kazakhstan, and then indicated that the aircraft should be de-registered in the United States because it was being exported to, and going to be registered in, Ukraine. Additional documents obtained by OEE included a copy of the sales agreement relating to this aircraft, which listed a UAE company as the purchaser. Moreover, an industry database indicated that the aircraft was being transferred or sold to Mahan Airways. After multiple attempts by OEE to contact the UAE company regarding OEE's concerns about any sale or other diversion to Mahan Airways, the same industry database was revised so as to indicate that the sale/transfer to Mahan had been cancelled. The timing of this revision is suspicious. Moreover, as discussed in prior renewal orders, Mahan Airways has used a broad network of agents and affiliates to unlawfully procure and attempt to procure aircraft and other items subject to the Regulations via third countries and sham or masked transactions, including via the UAE and Indonesia.

#### C. Findings

Under the applicable standard set forth in Section 766.24 of the

<sup>28</sup> Publicly available flight tracking information shows that on June 22, 2017, EP-MME (MSN 371) flew from Moscow, Russia to Tehran, Iran. Additionally, between June 19, 2017, and June 20, 2017, EP-MMQ (MSN 449), an Airbus A430 also obtained from or through Al Naser Airlines, flew on routes between Shanghai, China and Tehran, Iran. Similar flight tracking information shows that on June 20, 2017, EP-MNK (MSN 618), an Airbus A300 originally acquired by Mahan via a Ukrainian company, flew between Kabul, Afghanistan and Mashhad, Iran.

Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that the denied persons have acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of future violations. Therefore, renewal of the TDO is necessary to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should continue to cease dealing with Mahan Airways, Al Naser Airlines, and the other denied persons under the TDO in connection with export and reexport transactions involving items subject to the Regulations.

#### IV. Order

*It is therefore ordered:*

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; ALI ESLAMIAN, 33 Cavendish Square, 4th Floor, London W1G0PW, United Kingdom, and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; SKYCO (UK) LTD., 33 Cavendish Square, 4th Floor, London, W1G 0PV, United Kingdom; EQUIPCO (UK) LTD., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom; and MEHDI BAHRAMI, Mahan Airways- Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL-NASER AIRLINES A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiry Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates, and P.O.

Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiryra Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177; BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates; SKY BLUE BIRD GROUP A/K/A SKY BLUE BIRD AVIATION A/K/A SKY BLUE BIRD LTD A/K/A SKY BLUE BIRD FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates; and ISSAM SHAMMOUT A/K/A MUHAMMAD ISAM MUHAMMAD ANWAR NUR SHAMMOUT A/K/A ISSAM ANWAR, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria, and Al Kolaa, Beirut, Lebanon 151515, and 17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom, and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a “Denied Person” and collectively the “Denied Persons”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Export Administration Regulations (“EAR”), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

*Second*, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership,

possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, that, after notice and opportunity for comment as provided in Section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

*Fourth*, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Sky Blue Bird Group, and/or Issam Shammout may, at any time, appeal their inclusion as a related

person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and each related person, and shall be published in the **Federal Register**. This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 27, 2017.

**Richard R. Majauskas,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2017–13972 Filed 6–30–17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Notice of Partially Closed Meeting of the Materials Technical Advisory Committee

The Materials Technical Advisory Committee will meet on July 20, 2017, 10:00 a.m. (Mountain Daylight Time), at Sundyne, 14845 W. 64th Avenue, Arvada, CO 80007. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

#### Agenda

##### *Open Session*

1. Introductions and opening remarks by Sundyne Senior Management. Remarks by Matthew Borman, Acting Assistant Secretary for Export Administration.

2. FBI Special Agent Justin Maenius will present the economic espionage video “The Company Man” and discussion will follow.

3. Handling large unit exports from Sundyne.
4. Vestas and other presenters (UTAS).
5. Report by individual members on their industry and working groups.
6. Public Comments/New Business.

#### Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sec. 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov), no later than July 13, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sec. 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public. For more information, call Yvette Springer at (202) 482-2813.

#### Yvette Springer,

*Committee Liaison Officer.*

[FR Doc. 2017-13869 Filed 6-30-17; 8:45 am]

BILLING CODE 3510-JT-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Notice of Partially Closed Meeting of the Transportation and Related Equipment Technical Advisory Committee

The Transportation and Related Equipment Technical Advisory Committee will meet on September 6, 2017, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th

Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

#### Agenda

##### Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

##### Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than August 30, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

#### Yvette Springer,

*Committee Liaison Officer.*

[FR Doc. 2017-13875 Filed 6-30-17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on July 20 and 21, 2017, 8:30 a.m. (Pacific Daylight Time), at the University of California, Berkeley, Toll Room, Alumni Hall, Berkeley, CA 94720. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

#### Agenda

##### Thursday, July 20

##### Closed Session

##### Friday, July 21

##### Open Session

1. Welcome Remarks & Update of ETRAC activities.
    - Status of Industry Sectors being reviewed by the ETRAC: Electronics & Graphene Circuits, Graphene metamaterials, Robotics and Big Data, Optoelectronics & Photonics, Additive Manufacturing, Advanced materials, Autonomous Technology, and Hypersonics.
  2. Export Control Issues and Research Being Conducted at the University of California-Berkeley.
  3. Update on Export Control Issues.
  4. Presentation by Jeff Welsler, Vice President-IBM & Director of the Almaden Research Laboratory, San Jose, CA.
    - Current research on: Cognitive Computing, Quantum Computing, Nanobiotechnology, Carbon nanotubes, Computational materials science, Amorphous semiconductors, and Atomic storage.
  5. Comments from the Public.
  6. Review of current emerging technology issues.
    - Report on Tech Connect Conference and U.S.-European Scientific Research Collaboration Matchmaking event.
- Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C., App. 2, 10(a)(1) and 10(a)(3).
- The open sessions will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than, July 13, 2017.
- A limited number of seats will be available for the public session.

Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 22, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters of which would be likely to frustrate significant implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C., *App.* 2, 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

**Yvette Springer,**  
*Committee Liaison Officer.*

[FR Doc. 2017-13872 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-JT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Order Denying Export Privileges

In the Matter of Manuel Morales, Inmate Number: 45841-051, FCI Phoenix, 37910 N. 45th Avenue, Phoenix, AZ 85086.

On June 1, 2016, in the U.S. District Court for the District of Arizona, Manuel Morales (“Morales”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Morales was convicted of knowingly and intentionally combining, conspiring, confederating and agreeing with other persons, known and unknown, to export from the United States to Mexico defense articles designated on the United States Munitions List, namely, 540 rounds of 7.62 x 39 caliber ammunition and seven 7.62 x 39 caliber magazines, without the required U.S. Department of State licenses. Morales was sentenced to 50 months in prison with credit for time served, 36 months of supervised release, and a \$100 special assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or

“Regulations”)<sup>1</sup> provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of his conviction.

BIS has received notice of Morales’s conviction for violating the AECA, and has provided notice and an opportunity for Morales to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Morales.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Morales’s export privileges under the Regulations for a period of 10 years from the date of Morales’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Morales had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:  
*First*, from the date of this Order until June 1, 2026, Manuel Morales, with a

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015)) (available at <http://uscode.house.gov>) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

last known address of Inmate Number: 45841-051, FCI Phoenix, 37910 N. 45th Avenue, Phoenix, AZ 85086, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

*Second*, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever

origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Morales by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

*Fourth*, in accordance with Part 756 of the Regulations, Morales may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

*Fifth*, a copy of this Order shall be delivered to Morales and shall be published in the **Federal Register**.

*Sixth*, this Order is effective immediately and shall remain in effect until June 1, 2026.

Dated: June 27, 2017.

**Karen H. Nies-Vogel**,

*Director, Office of Exporter Services.*

[FR Doc. 2017-13969 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 26 and 27, 2017, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

#### Wednesday, July 26

##### Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Old Business

4. *Industry Presentations*: Quantum Computing
5. New business

#### Thursday, July 27

##### Closed Session

6. Discussion of Matters Determined to be Exempt From the Provisions Relating to Public Meetings Found in 5 U.S.C. App. 2, 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov), no later than July 19, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 27, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2, (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. App. 2, 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

**Yvette Springer**,

*Committee Liaison Officer.*

[FR Doc. 2017-13871 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-JT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Order Denying Export Privileges

In the Matter of: Edwin Navarro Makasiar II, Inmate Number: 47704-424, D. Ray James

Correctional Institution, P.O. Box 2000, Folkston, GA 31437.

On June 30, 2015, in the U.S. District Court for the Northern District of Illinois, Edwin Navarro Makasiar II (“Makasiar”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Makasiar was convicted of knowingly and willfully attempting to export from the United States to the Philippines defense articles designated on the United States Munitions List, namely, two Glock Model 23, .40 caliber pistols and approximately 2,500 rounds of .223 caliber and 5.56 mm ammunition, without the required U.S. Department of State licenses. Makasiar was sentenced to 60 months in prison, a \$2,000 criminal fine, and a \$200 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)<sup>1</sup> provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015)) (available at <http://uscode.house.gov>) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

which the person had an interest at the time of his conviction.

BIS has received notice of Makasiar's conviction for violating the AECA, and has provided notice and an opportunity for Makasiar to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Makasiar.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Makasiar's export privileges under the Regulations for a period of 10 years from the date of Makasiar's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Makasiar had an interest at the time of his conviction.

*Accordingly, it is hereby ordered:*

*First*, from the date of this Order until June 30, 2025, Edwin Navarro Makasiar II, with a last known address of Inmate Number: 47704-424, D. Ray James Correctional Institution, P.O. Box 2000, Folkston, GA 31437, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

*Second*, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership,

possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Makasiar by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

*Fourth*, in accordance with Part 756 of the Regulations, Makasiar may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

*Fifth*, a copy of this Order shall be delivered to Makasiar, and shall be published in the **Federal Register**.

*Sixth*, this Order is effective immediately and shall remain in effect until June 30, 2025.

Dated: June 27, 2017.

**Karen H. Nies-Vogel**,

*Director, Office of Exporter Services.*

[FR Doc. 2017-13971 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Order Denying Export Privileges

In the Matter of: Jose Abraham Benavides-Cira, Inmate Number: 85048-379, FCI Big Spring, 1900 Simler Avenue, Big Spring, TX 79720.

On May 23, 2016, in the U.S. District Court for the Southern District of Texas, Jose Abraham Benavides-Cira was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) ("AECA"). Specifically, Jose Abraham Benavides-Cira was convicted of intentionally and knowingly conspiring and agreeing with other persons to knowingly and willfully export, and cause to be exported, from the United States to Mexico defense articles designated on the United States Munitions List, namely, 5.56 caliber rifles, without the required U.S. Department of State licenses. Jose Abraham Benavides-Cira was sentenced to 135 months in prison and a \$200 assessment.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations")<sup>1</sup> provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>)) ("EAA" or "the Act"). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).



Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued pursuant to the Export Administration Act ("EAA" or "the Act") or the Regulations in which the person had an interest at the time of his conviction.

BIS has received notice of Jose Abraham Benavides-Cira's conviction for violating the AECA, and has provided notice and an opportunity for Jose Abraham Benavides-Cira to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Jose Abraham Benavides-Cira.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Jose Abraham Benavides-Cira's export privileges under the Regulations for a period of five years from the date of Jose Abraham Benavides-Cira's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Jose Abraham Benavides-Cira had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

*First*, from the date of this Order until May 23, 2021, Jose Abraham Benavides-Cira, with a last known address of Inmate Number: 85048-379, FCI Big Spring, 1900 Simler Avenue, Big Spring, TX 79720, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

*Second*, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Jose Abraham Benavides-Cira by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

*Fourth*, in accordance with Part 756 of the Regulations, Jose Abraham Benavides-Cira may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

*Fifth*, a copy of this Order shall be delivered to Jose Abraham Benavides-Cira, and shall be published in the **Federal Register**.

*Sixth*, this Order is effective immediately and shall remain in effect until May 23, 2021.

Dated: June 27, 2017.

**Karen H. Nies-Vogel,**

*Director, Office of Exporter Services.*

[FR Doc. 2017-13970 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

#### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (the Department) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

#### Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation



**Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be “collapsed” (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances

review). For any company subject to a review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may

withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after July 2017, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its “Opportunity to Request Administrative Review” notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

*Opportunity to Request a Review:* Not later than the last day of July 2017,<sup>1</sup> interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period of review
<b>Antidumping Duty Proceedings</b>	
India: Corrosion-Resistant Steel Products A-533-863 .....	1/4/16-6/30/17
India: Polyethylene Terephthalate (Pet) Film A-533-824 .....	7/1/16-6/30/17
Iran: In-Shell Pistachios A-507-502 .....	7/1/16-6/30/17
Italy: Certain Pasta A-475-818 .....	7/1/16-6/30/17
Italy: Corrosion-Resistant Steel Products A-475-832 .....	1/4/16-6/30/17
Japan: Clad Steel Plate A-588-838 .....	7/1/16-6/30/17
Japan: Cold-Rolled Steel Flat Products A-588-873 .....	3/7/16-6/30/17
Japan: Polyvinyl Alcohol A-588-861 .....	7/1/16-6/30/17
Japan: Stainless Steel Sheet and Strip in Coils A-588-845 .....	7/1/16-6/30/17
Malaysia: Steel Nails A-557-816 .....	7/1/16-6/30/17
Malaysia: Welded Stainless Steel Pressure Pipe A-557-815 .....	7/1/16-6/30/17
Oman: Steel Nails A-523-808 .....	7/1/16-6/30/17
Republic of Korea: Corrosion-Resistant Steel Products A-580-878 .....	1/4/16-6/30/17
Republic of Korea: Stainless Steel Sheet and Strip in Coils A-580-834 .....	7/1/16-6/30/17
Republic of Korea: Steel Nails A-580-874 .....	7/1/16-6/30/17
Socialist Republic of Vietnam: Steel Nails A-552-818 .....	7/1/16-6/30/17
Socialist Republic of Vietnam: Welded Stainless Pressure Pipe A-522-816 .....	7/1/16-6/30/17
Taiwan: Corrosion-Resistant Steel Products A-583-856 .....	6/2/16-6/30/17
Taiwan: Polyethylene Terephthalate (Pet) Film A-583-837 .....	7/1/16-6/30/17
Taiwan: Stainless Steel Sheet and Strip in Coils A-583-831 .....	7/1/16-6/30/17
Taiwan: Steel Nails A-583-854 .....	7/1/16-6/30/17
Thailand: Carbon Steel Butt-Weld Pipe Fittings A-549-807 .....	7/1/16-6/30/17
Thailand: Weld Stainless Steel Pressure Pipe A-549-830 .....	7/1/16-6/30/17
The People’s Republic of China: Carbon Steel Butt-Weld Pipe Fittings A-570-814 .....	7/1/16-6/30/17
Certain Potassium Phosphate Salts A-570-962 .....	7/1/16-6/30/17
Certain Steel Grating A-570-947 .....	7/1/16-6/30/17
Circular Welded Carbon Quality Steel Pipe A-570-910 .....	7/1/16-6/30/17

<sup>1</sup> Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
Cold-Rolled Steel Flat Products A-570-029 .....	3/7/16-6/30/17
Corrosion-Resistant Steel Products A-570-026 .....	1/4/16-6/30/17
Persulfates A-570-847 .....	7/1/16-6/30/17
Xanthan Gum A-570-985 .....	7/1/16-6/30/17
Turkey: Certain Pasta A-489-805 .....	7/1/16-6/30/17

#### Countervailing Duty Proceedings

India: Corrosion-Resistant Steel Products C-533-864 .....	11/6/15-12/31/16
India: Polyethylene Terephthalate (Pet) Film C-533-825 .....	1/1/16-12/31/16
Italy: Certain Pasta C-475-819 .....	1/1/16-12/31/16
Italy: Corrosion-Resistant Steel Products C-475-833 .....	11/6/15-12/31/16
Republic of Korea: Corrosion-Resistant Steel Products C-580-879 .....	11/6/15-12/31/16
Socialist of Republic of Vietnam: Steel Nails C-552-819 .....	1/1/16-12/31/16
The People's Republic of China: Certain Potassium Phosphate Salts C-570-963 .....	1/1/16-12/31/16
Circular Welded Carbon Quality Steel Pipe C-570-911 .....	1/1/16-12/31/16
Cold-Rolled Steel Flat Products C-570-030 .....	12/22/15-12/31/16
Corrosion-Resistant Steel Products C-570-027 .....	11/6/15-12/31/16
Prestressed Concrete Steel Wire Strand C-570-946 .....	1/1/16-12/31/16
Steel Grating C-570-948 .....	1/1/16-12/31/16
Turkey: Certain Pasta C-489-806 .....	1/1/16-12/31/16

#### Suspension Agreements

Ukraine: Oil Country Tubular Goods A-823-815 .....	7/1/16-6/30/17
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In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an

explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.<sup>2</sup>

The Department no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.<sup>3</sup> Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of

<sup>2</sup> See also the Enforcement and Compliance Web site at <http://trade.gov/enforcement/>.

<sup>3</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

the NME entity.<sup>4</sup> In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS

<sup>4</sup> In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

Web site at <http://access.trade.gov>.<sup>5</sup> Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of “Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation” for requests received by the last day of July 2017. If the Department does not receive, by the last day of July 2017, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures “gap” period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 21, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017-13937 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-822]

#### **Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2015–2016**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 6, 2017, the Department of Commerce (the

<sup>5</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

Department) published the preliminary results of the 2015–2016 administrative review of the antidumping duty order on certain frozen warmwater shrimp from Thailand. The review covers 160 producers/exporters of the subject merchandise. The period of review (POR) is February 1, 2015, through January 31, 2016.

We gave interested parties an opportunity to comment on the preliminary results. After analyzing the comments received, our final results remain unchanged from the preliminary results. Finally, we find that four companies had no shipments of subject merchandise during the POR.

**DATES:** Effective July 3, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Andrew Medley or Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4987 and (202) 482-4682, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

The review covers 160 producers/exporters of the subject merchandise. The respondents which the Department selected for individual examination are Mayao<sup>1</sup> and Thai Union/Pakfood.<sup>2</sup> The respondents which were not selected for individual examination are listed in the “Final Results of the Review” section of this notice.

On March 6, 2017, the Department published the *Preliminary Results*.<sup>3</sup> We invited parties to comment on the preliminary results of the review.<sup>4</sup> In April 2017, we received a case brief from Mayao and certain of the individual companies comprising Thai Union/Pakfood (collectively, the respondents);<sup>5</sup> we also received a

<sup>1</sup> Mayao consists of the following companies: A Foods 1991 Co., Limited and May Ao Foods Co., Ltd.

<sup>2</sup> Thai Union/Pakfood consists of the following companies: Thai Union Group Public Co., Ltd. (also known as Thai Union Frozen Products Public Co., Ltd.), Thai Union Seafood Company Limited, Pakfood Public Company Limited, Asia Pacific (Thailand) Co., Ltd., Chaophraya Cold Storage Co. Ltd., Okeanos Co. Ltd., Okeanos Food Co. Ltd., and Takzin Samut Co. Ltd.

<sup>3</sup> See *Certain Frozen Warmwater Shrimp From Thailand; Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015–2016*, 82 FR 12540 (March 6, 2017) (*Preliminary Results*).

<sup>4</sup> *Id.*

<sup>5</sup> Thai Union/Pakfood’s case brief was not filed on behalf of the following companies which are included in the Thai/Union/Pakfood collapsed entity: Asia Pacific (Thailand) Co., Ltd., Chaophraya Cold Storage Co. Ltd., Okeanos Food Co. Ltd., and Takzin Samut Co. Ltd.

rebuttal brief from the Ad Hoc Shrimp Trade Action Committee (the petitioner). The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

#### **Scope of the Order**

The merchandise subject to the order is certain frozen warmwater shrimp.<sup>6</sup> The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

#### **Analysis of Comments Received**

All issues raised in the case briefs by parties are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum. Parties can find a complete discussion of these issues and the corresponding recommendations in the Issues and Decision memorandum, which is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### **Determination of No Shipments**

As noted in the *Preliminary Results*, we received no shipment claims from five companies involved in this administrative review: Calsonic Kansei (Thailand) Co., Ltd. (Calsonic Kansei); Grobest Frozen Foods Co., Ltd. (Grobest); Lucky Union Foods Co., Ltd. (Lucky Union); Marine Gold Products

<sup>6</sup> For a complete description of the Scope of the Order, see the memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled, “Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Thailand,” (dated concurrently with these results) (Issues and Decision Memorandum), which is hereby adopted by this notice.

Ltd. (Marine Gold); and Thai Union Manufacturing Company Limited (Thai Union Manufacturing). In the *Preliminary Results*, we preliminarily determined that four of these companies (*i.e.*, Calsonic Kansei, Lucky Union, Marine Gold, and Thai Union Manufacturing) had no reviewable transactions during the POR.<sup>7</sup> We received no comments from interested parties with respect to these claims. Therefore, because the record indicates that these companies did not export

subject merchandise to the United States during the POR, we continue to find that Calsonic Kansei, Lucky Union, Marine Gold, and Thai Union Manufacturing had no reviewable transactions during the POR.

With respect to the remaining company (*i.e.*, Grobest), in the *Preliminary Results*, we found insufficient evidence on the record to conclude that this company made no shipments of subject merchandise during the POR. As a result, we

preliminarily included Grobest in the administrative review.<sup>8</sup> Because we received no comments from interested parties with respect to this determination, we continue to include Grobest in this administrative review.

#### Final Results of the Review

We are assigning the following dumping margins to the respondents for the period February 1, 2015, through January 31, 2016, as follows:

Producer/exporter	Dumping margin (percent)
A Foods 1991 Co., Limited/May Ao Foods Co., Ltd .....	1.23
Thai Union Frozen Products Public Co., Ltd. <sup>9</sup> /Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Okeanos Food Co., Ltd./Okeanos Co. Ltd./Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co. Ltd./Takzin Samut Co. Ltd .....	0.51

Review-Specific Average Rate  
Applicable to the Following Non-  
Selected Companies:<sup>10</sup>

Producer/exporter	Dumping margin (percent)
A. Wattanachai Frozen Products Co., Ltd .....	0.81
A.P. Frozen Foods Co., Ltd .....	0.81
A.S. Intermarine Foods Co., Ltd .....	0.81
ACU Transport Co., Ltd .....	0.81
Ampai Frozen Foods Co., Ltd .....	0.81
Anglo-Siam Seafoods Co., Ltd .....	0.81
Apex Maritime (Thailand) Co., Ltd .....	0.81
Apitoon Enterprise Industry Co., Ltd .....	0.81
Applied DB .....	0.81
Asian Seafood Coldstorage (Sriracha) .....	0.81
Asian Seafoods Coldstorage Public Co., Ltd./Asian Seafoods Coldstorage (Suratthani) Co., Limited/STC Foodpak Ltd .....	0.81
Assoc. Commercial Systems .....	0.81
B.S.A. Food Products Co., Ltd .....	0.81
Bangkok Dehydrated Marine Product Co., Ltd .....	0.81
C Y Frozen Food Co., Ltd .....	0.81
C.P. Mdse .....	0.81
C.P. Merchandising Co., Ltd./Charoen Pokphand Foods Public Co., Ltd./Klang Co., Ltd./Seafoods Enterprise Co., Ltd./Thai Prawn Culture Center Co., Ltd .....	0.81
CP Retailing and Marketing Co., Ltd .....	0.81
C.P. Intertrade Co. Ltd .....	0.81
Calsonic Kansei (Thailand) Co., Ltd .....	(*)
Century Industries Co., Ltd .....	0.81
Chaivaree Marine Products Co., Ltd .....	0.81
Chaiwarut Company Limited .....	0.81
Charoen Pokphand Foods Public Co., Ltd .....	0.81
Charoen Pokphand Petrochemical Co., Ltd .....	0.81
Chonburi LC .....	0.81
Chue Eie Mong Eak .....	0.81
Commonwealth Trading Co., Ltd .....	0.81
Core Seafood Processing Co., Ltd .....	0.81
C.P.F. Food Products Co., Ltd .....	0.81
Crystal Frozen Foods Co., Ltd .....	0.81
Crystal Seafood .....	0.81
Daedong (Thailand) Co. Ltd .....	0.81
Daiei Taigen (Thailand) Co., Ltd .....	0.81
Daiho (Thailand) Co., Ltd .....	0.81
Dynamic Intertransport Co., Ltd .....	0.81

<sup>7</sup> See *Preliminary Results*, 82 FR at 12540.

<sup>8</sup> *Id.*

<sup>9</sup> On January 5, 2016, the Department found that Thai Union Group Public Co., Ltd. is the successor-

in-interest to Thai Union Frozen Products Public Co., Ltd. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016).

<sup>10</sup> This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis* or based entirely on facts available. See section 735(c)(5)(A) of the Act.

Producer/exporter	Dumping margin (percent)
Earth Food Manufacturing Co., Ltd .....	0.81
F.A.I.T. Corporation Limited .....	0.81
Far East Cold Storage Co., Ltd .....	0.81
Fimex VN .....	0.81
Findus (Thailand) Ltd .....	0.81
Fortune Frozen Foods (Thailand) Co., Ltd .....	0.81
Frozen Marine Products Co., Ltd .....	0.81
Gallant Ocean (Thailand) Co., Ltd .....	0.81
Gallant Seafoods Corporation .....	0.81
Global Maharaja Co., Ltd .....	0.81
Golden Sea Frozen Foods Co., Ltd .....	0.81
Golden Thai Imp. & Exp. Co., Ltd .....	0.81
Good Fortune Cold Storage Co. Ltd .....	0.81
Good Luck Product Co., Ltd .....	0.81
Grobest Frozen Foods Co., Ltd .....	0.81
Gulf Coast Crab Intl .....	0.81
H.A.M. International Co., Ltd .....	0.81
Haitai Seafood Co., Ltd .....	0.81
Handy International (Thailand) Co., Ltd .....	0.81
Heng Seafood Limited Partnership .....	0.81
Heritrade .....	0.81
HIC (Thailand) Co., Ltd .....	0.81
High Way International Co., Ltd .....	0.81
I.S.A. Value Co., Ltd .....	0.81
I.T. Foods Industries Co., Ltd .....	0.81
Inter-Oceanic Resources Co., Ltd .....	0.81
Inter-Pacific Marine Products Co., Ltd .....	0.81
K & U Enterprise Co., Ltd .....	0.81
K Fresh .....	0.81
K. D. Trading Co., Ltd .....	0.81
K.L. Cold Storage Co., Ltd .....	0.81
KF Foods Ltd .....	0.81
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd .....	0.81
Kibun Trdg .....	0.81
Kingfisher Holdings Ltd .....	0.81
Kitchens of the Oceans (Thailand) Company, Ltd .....	0.81
Kongphop Frozen Foods Co., Ltd .....	0.81
Lee Heng Seafood Co., Ltd .....	0.81
Leo Transports .....	0.81
Li-Thai Frozen Foods Co., Ltd .....	0.81
Lucky Union Foods Co., Ltd .....	(*)
Magnate & Syndicate Co., Ltd .....	0.81
Mahachai Food Processing Co., Ltd .....	0.81
Mahachai Marine Foods Co., Ltd .....	0.81
Marine Gold Products Ltd <sup>11</sup> .....	(*)
Merit Asia Foodstuff Co., Ltd .....	0.81
Merkur Co., Ltd .....	0.81
Ming Chao Ind Thailand .....	0.81
N&N Foods Co., Ltd .....	0.81
N.R. Instant Produce Co., Ltd .....	0.81
Nam prik Maesri Ltd. Part .....	0.81
Narong Seafood Co., Ltd .....	0.81
Nongmon SMJ Products .....	0.81
Ongkorn Cold Storage Co., Ltd./Thai-Ger Marine Co., Ltd .....	0.81
Pacific Queen Co., Ltd .....	0.81
Pakpanang Coldstorage Public Co., Ltd .....	0.81
Penta Impex Co., Ltd .....	0.81
Pinwood Nineteen Ninety Nine .....	0.81
Piti Seafood Co., Ltd .....	0.81
Premier Frozen Products Co., Ltd .....	0.81
Preserved Food Specialty Co., Ltd .....	0.81
Queen Marine Food Co., Ltd .....	0.81
Rayong Coldstorage (1987) Co., Ltd .....	0.81
S&D Marine Products Co., Ltd .....	0.81
S&P Aquarium .....	0.81
S&P Syndicate Public Company Ltd .....	0.81
S. Chaivaree Cold Storage Co., Ltd .....	0.81
S. Khonkaen Food Industry Public Co., Ltd. and/or S. Khonkaen Food Ind. Public .....	0.81
S.K. Foods (Thailand) Public Co. Limited .....	0.81
Samui Foods Company Limited .....	0.81
SB Inter Food Co., Ltd .....	0.81
SCT Co., Ltd .....	0.81

Producer/exporter	Dumping margin (percent)
Sea Bonanza Food Co., Ltd .....	0.81
SEA NT'L CO., LTD .....	0.81
Seafresh Fisheries/Seafresh Industry Public Co., Ltd .....	0.81
Search and Serve .....	0.81
Sethachon Co., Ltd .....	0.81
Shianlin Bangkok Co., Ltd .....	0.81
Shing Fu Seaproducts Development Co .....	0.81
Siam Food Supply Co., Ltd .....	0.81
Siam Haitian Frozen Food Co., Ltd .....	0.81
Siam Intersea Co., Ltd .....	0.81
Siam Marine Products Co. Ltd .....	0.81
Siam Ocean Frozen Foods Co. Ltd .....	0.81
Siam Union Frozen Foods .....	0.81
Siamchai International Food Co., Ltd .....	0.81
Smile Heart Foods Co. Ltd .....	0.81
SMP Products, Co., Ltd .....	0.81
Southport Seafood Co., Ltd .....	0.81
Star Frozen Foods Co., Ltd .....	0.81
Starfoods Industries Co., Ltd .....	0.81
Suntechthai Intertrading Co., Ltd .....	0.81
Surapon Foodsblc Co., Ltd./Surat Seafoods Public Co., Ltd .....	0.81
Surapon Nichirei Foods Co., Ltd .....	0.81
Suratthani Marine Products Co., Ltd .....	0.81
Suree Interfoods Co., Ltd .....	0.81
T.S.F. Seafood Co., Ltd .....	0.81
Tep Kinsho Foods Co., Ltd .....	0.81
Teppitak Seafood Co., Ltd .....	0.81
Tey Seng Cold Storage Co., Ltd .....	0.81
Thai Agri Foods Public Co., Ltd .....	0.81
Thai Hanjin Logistics Co., Ltd .....	0.81
Thai Mahachai Seafood Products Co., Ltd .....	0.81
Thai Ocean Venture Co., Ltd .....	0.81
Thai Patana Frozen .....	0.81
Thai Royal Frozen Food Co., Ltd .....	0.81
Thai Spring Fish Co., Ltd .....	0.81
Thai Union Manufacturing Company Limited .....	(*)
Thai World Imports and Exports Co., Ltd .....	0.81
Thai Yoo Ltd., Part .....	0.81
The Siam Union Frozen Foods Co., Ltd .....	0.81
The Union Frozen Products Co., Ltd./Bright Sea Co., Ltd .....	0.81
Trang Seafood Products Public Co., Ltd .....	0.81
Transmut Food Co., Ltd .....	0.81
Tung Lieng Tradg .....	0.81
United Cold Storage Co., Ltd .....	0.81
UTXI Aquatic Products Processing Company .....	0.81
V. Thai Food Product Co., Ltd .....	0.81
Wann Fisheries Co., Ltd .....	0.81
Xian-Ning Seafood Co., Ltd .....	0.81
Yeenin Frozen Foods Co., Ltd .....	0.81
ZAFCO TRDG .....	0.81

\* No shipments or sales subject to this review.

### Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), where Mayao and

<sup>11</sup> Shrimp produced and exported by Marine Gold were excluded from the antidumping duty order effective February 1, 2012. See *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part); 2011–2012*, 78 FR 42497. Accordingly, we are conducting this administrative review with respect to Marine Gold only for shrimp produced in Thailand where Marine Gold acted as either the manufacturer or exporter (but not both).

Thai Union/Pakfood reported the entered value for their U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where Mayao and Thai Union/Pakfood did not report entered value, we calculated the entered value in order to calculate the assessment rates.

For the companies which were not selected for individual examination, we used as the assessment rate the average

of the cash deposit rates calculated for Mayao and Thai Union/Pakfood.

Consistent with our established practice, for entries of subject merchandise during the POR produced by Mayao, Thai Union/Pakfood, or any of the companies with accepted no shipment claims for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate effective during the POR if there is no rate for the intermediate company(ies) involved in the transaction.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, as well as those companies listed in the “Determination of No Shipments” section, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.<sup>12</sup> These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of

antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(h).

Dated: June 27, 2017.

**Ronald K. Lorentzen,**  
*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix I**

**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issues
  - General Issues*
  - 1. Differential Pricing Methodology
  - 2. Ministerial Errors in Draft Customs Instructions

*Company-Specific Issues*

- 3. Cost Database for Thai Union/Pakfood
  - 4. General and Administrative Expenses for Thai Union/Pakfood
- V. Recommendation

[FR Doc. 2017-13941 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**Background**

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (“the Department”) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

**Upcoming Sunset Reviews for August 2017**

The following Sunset Reviews are scheduled for initiation in August 2017 and will appear in that month’s *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Reviews).

Antidumping duty proceedings	Department contact
Seamless Line and Pressure Pipe from Germany (A-428-820) (4th Review) .....	Jacqueline Arrowsmith, (202) 482-5255

*Countervailing Duty Proceedings*

No Sunset Review of countervailing duty orders is scheduled for initiation in August 2017.

*Suspended Investigations*

No Sunset Review of suspended investigations is scheduled for initiation in August 2017.

The Department’s procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (Sunset) *Reviews*

provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

<sup>12</sup> Effective January 16, 2009, there is no longer a cash deposit requirement for certain producers/exporters in accordance with the *Implementation of the Findings of the WTO Panel in United States*

*Antidumping Measure on Shrimp from Thailand: Notice of Determination under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on*

*Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 21, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017-13936 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-806]

#### Silicon Metal From the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of this fourth sunset review, the Department of Commerce (the Department) finds that revocation of the antidumping duty order on silicon metal from the People's Republic of China (PRC) would be likely to lead to continuation or recurrence of dumping, at the level indicated in the "Final Results of Sunset Review" section of this notice, *infra*.

**DATES:** Effective July 3, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Karine Gziryan or Howard Smith, AD/CVD Operations, Office 4, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4081 or (202) 482-5193, respectively.

#### Background

On June 10, 1991, the Department published in the **Federal Register** the antidumping duty order on silicon metal from the PRC.<sup>1</sup> On March 3, 2017, the Department published the notice of initiation of the fourth sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On March 3, 2017, pursuant to 19 CFR 351.218(d)(1), the Department received a timely and complete notice of intent to participate in the sunset review from Globe Metallurgical, Inc., a domestic producer of silicon metal (Globe).<sup>3</sup> This notice was filed within

<sup>1</sup> See *Antidumping Duty Order: Silicon Metal From the People's Republic of China*, 56 FR 26649 (June 10, 1991) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Review*, 82 FR 12438 (March 3, 2017).

<sup>3</sup> See Letter from Domestic Interested Party (Globe) re Silicon Metal from the People's Republic

the time period specified in 19 CFR 351.218(d)(1)(i).<sup>4</sup> On March 24, 2017, pursuant to 19 CFR 351.218(d)(3)(i), Globe filed a timely and adequate substantive response.<sup>5</sup> The Department did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) fourth sunset review of the *Order*.

#### Scope of the Order

The merchandise covered by the order is silicon metal containing at least 96.00 percent, but less than 99.99 percent of silicon by weight. Also covered by the order is silicon metal containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight (58 FR 27542, May 10, 1993). Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTSUS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to this order. Although the HTSUS numbers are provided for convenience and customs purposes, the written description remains dispositive.

#### Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, specifically the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>6</sup> The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

of China; Fourth Sunset Review; Notice of Intent to Participate dated March 3, 2017.

<sup>4</sup> See *Id.*

<sup>5</sup> See Silicon Metal from the People's Republic of China; Fourth Sunset Review; Substantive Response of Globe Metallurgical Inc. to the Notice of Initiation, dated March 24, 2017 (Globe Substantive Response).

<sup>6</sup> See Silicon Metal from the People's Republic of China: Issues and Decision Memorandum for the Expedited Fourth Sunset Review of the Antidumping Duty Order on Silicon Metal from the People's Republic of China dated (Issues and Decision Memorandum), dated concurrently with this notice.

Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

#### Final Results of Sunset Review

Pursuant to section 752(c)(3) of the Act, the Department determines that revocation of the *Order* would likely lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 139.49 percent.

#### Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: June 27, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017-13940 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

#### Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 6, 2017, the Department of Commerce (the



Department) published the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period of review (POR) February 1, 2015, through January 31, 2016. We invited interested parties to comment on the preliminary results. We received comments from Dezhou Kaihang Agricultural Science Technology Co., Ltd. (Dezhou Kaihang) agreeing with the preliminary results. No other party submitted comments. Accordingly, the final results remain unchanged from the preliminary results.

**DATES:** Effective July 3, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Michael J. Heaney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-4475.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 6, 2017, the Department published the *Preliminary Results*<sup>1</sup> of the 2015–2016 administrative review of the antidumping duty order<sup>2</sup> on certain preserved mushrooms from the PRC. We invited interested parties to comment on the *Preliminary Results*. On April 5, 2017, the Department received a letter in lieu of a case brief from Dezhou Kaihang.<sup>3</sup> No other parties submitted case briefs or rebuttal briefs.

**Scope of the Order**

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs

<sup>1</sup> See *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2015–2016*, 82 FR 12564 (March 6, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308 (February 19, 1999) (*Order*).

<sup>3</sup> See Dezhou Kaihang Agricultural Science Technology Co., Ltd.'s Letter Brief in the Administrative Review of Certain Preserved Mushrooms from the People's Republic of China submitted April 5, 2017.

purposes, the written description of the scope of this order is dispositive.<sup>4</sup>

**Analysis of Comments Received**

We addressed the comments received by Dezhou Kaihang in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, Room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

**Final Determination of No Shipments**

In the *Preliminary Results*, we preliminarily determined that Zhangzhou Hongda Import & Export Trading Co., Ltd. (Hongda) and Zhangzhou Gangchang Canned Foods Co., Ltd. Fujian and Zhangzhou Gangchang Canned Foods Co., Ltd (collectively Gangchang) did not have any reviewable entries during the POR.<sup>5</sup> In particular, we found that Hongda and Gangchang submitted timely certifications of no shipments, entries, or sales of subject merchandise during the POR, and we did not receive any information from U.S. Customs and Border Protection (CBP) indicating there were reviewable entries for those companies during the POR.

Consistent with the Department's assessment practice in non-market economy cases, we stated in the *Preliminary Results* that the Department would not rescind the review in these circumstances but, rather, would complete the review with respect to Hongda and Gangchang and issue appropriate instructions to CBP based on the final results of the review.<sup>6</sup> We

<sup>4</sup> For a complete description of the scope of the Order, see memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance and Gary Taverman Deputy Assistant Secretary Antidumping and Countervailing Duty Operations "Certain Preserved Mushrooms from the People's Republic of China: Issues and Decision Memorandum for the Final Results of Administrative Review" (Issues and Decision Memorandum), dated concurrently with this notice and incorporated herein by reference.

<sup>5</sup> See *Preliminary Results*, 82 FR at 12564–12565

<sup>6</sup> *Id.*

did not receive any comments following our *Preliminary Results* with respect to this issue. As such, in these final results, we continue to determine that Hongda and Gangchang had no reviewable entries of subject merchandise during the POR.

**Final Results of Review**

The Department received no comments disagreeing with the methodology or analysis employed in the *Preliminary Results*. Accordingly, the Department continues to determine that the following weighted-average dumping margin exists in these final results:

Exporter	Weighted-average dumping margin (percent)
Dezhou Kaihang Agricultural Science Technology Co. Ltd ...	0.00

Additionally, in the *Preliminary Results*, we determined that the second mandatory respondent, Linyi City Kangfa Foodstuff Drinkable Co., Ltd. (Kangfa), failed to establish its eligibility for a separate rate and preliminarily determined to treat Kangfa as part of the PRC-wide entity.<sup>7</sup> We also preliminarily found that the remaining 98 exporters subject to this review did not establish their eligibility for separate rate status and that they were, thus, part of the PRC-wide entity.

No parties commented on this issue following the *Preliminary Results*. Therefore, in these final results, we continue to determine that Kangfa and the other 98 exporters are part of the PRC-wide entity.<sup>8</sup> Because no party

<sup>7</sup> *Id.*, at 12564.

<sup>8</sup> Companies that are subject to this administrative review that are considered to be part of the PRC-wide entity are: (1) Agrogenra & Co., Ltd., (2) Ayecue (Liaocheng) Foodstuff Co., Ltd., (3) Blue Field (Sichuan) Food Industrial Co., Ltd., (4) Cargo Services (China) Limited, (5) Casia Global Logistics Co., Ltd., (6) Changzhou Chen Rong-Da Carpet Co., Ltd., (7) Chaoda Mushroom Co., Ltd., (8) China National Cereals, Oil & Foodstuffs Import & Export Corp., (9) China Processed Food Import & Export Co., (10) Dalian New Century Food Co., Ltd., (11) DHL ISC (Hong Kong) Limited, (12) DSV Air Sea Co., Ltd., (13) Dujiangyan Xingda Foodstuff Co., Ltd., (14) Ever Since Group Co., Ltd., (15) Fujian Blue Lake Foods Co., Ltd., (16) Fujian Golden Banyan Foodstuffs Industrial Co., Ltd., (17) Fujian Haishan Foods Co., Ltd., (18) Fujian Pinghe Baofeng Canned Foods, (19) Fujian Tongfa Foods Group Co., Ltd., (20) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd., (21) Fujian Zishan Group Co., Ltd., (22) Golden Banyan Foodstuffs Industry Co., Ltd., (23) Guangxi Eastwing Trading Co., Ltd., (24) Guangxi Hengyong Industrial & Commercial Dev. Ltd., (25) Guangxi Jisheng Foods, Inc., (26) Hangzhou Happy Green Co., Ltd., (27) Hoa Mai Food Company Limited, (28) Honour Lane Shipping Ltd., (29) Inter-Foods

requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews, we did not conduct a review of the PRC-wide entity, and the entity's rate is not subject to change in this review.<sup>9</sup>

#### Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), the Department

(Dongshan) Co., Ltd., (30) Jeehuat Foodstuffs Industries Sdn. Bhd., (31) Jewell International Corporation, (32) Jiangxi Cereals Oils Foodstuffs, (33) Jin Feng Food Co., Ltd., (34) Joy Foods (Zhangzhou) Co., Ltd., (35) Kuehne & Nagel Limited Xiamen Branch, (36) LF Logistics Co., Ltd., (37) Kangfa, (38) Linyi Yuqiao International Trade Co., Ltd., (39) Logistics THL Corp., (40) Longhai Guangfa Food Co., Ltd., (41) Mikado Food China Co., Ltd., (42) Nam Phuong International Co., Ltd., (43) Nam Tien Production & Export Co., Ltd., (44) Omni Ringo Business Ltd., (45) OOCL Logistics Ltd., (46) Orient Express Container Co., Ltd., (47) Paifu Enterprise Corporation, (48) Panalpina World Transport (PRC) Ltd., (49) Philippine Haofeng Food Corporation, (50) Primera Harvest (Xiangfan) Co., Ltd., (51) PT. Apex Maritim Indonesia, (52) PT. Eka Timur Raya (Etra Mushrooms), (53) PT. Suryajaya Abadi Perkasa, (54) Pudong Prime International Logistics Inc., (55) Seahorse Shipping Corporation, (56) Shandong Fengyu Edible Fungus Corporation Ltd., (57) Shandong Jiufa Edible Fungus Corporation, Ltd., (58) Shandong Xinfa Agricultural Science Corporation Ltd., (59) Shandong Yinfeng Rare Fungus Corporation, Ltd., (60) Shanghai Best Wholesome Economy & Trade Co., Ltd., (61) Shenzhen Syntans International Logistics Co., Ltd., (62) Shouguang Sunrise Industry & Commerce Co., Ltd., (63) Shundi Foods Co., Ltd. (64) Speedier Logistics Co., Ltd., (65) Success Program International Transport J. S.C., (66) Sun Mark Industrial Corp., (67) Sun VN Transport Corp., (68) Sun Wave Trading Co., Ltd., (69) Sun Wave & Trading Co., Ltd., (70) Sunrise Food Industry & Commerce, (71) Thuy Duong Transport and Trading Service JSC, (72) Tianjin Fulida Supply Co., Ltd., (73) Woo Sun Food Factory Co., (74) Xiamen Aukking Imp. & Exp. Co., Ltd., (75) Xiamen Carre Food Co., Ltd., (76) Xiamen Choice Harvest Imp., (77) Xiamen Greenland Import & Export Co., Ltd., (78) Xiamen Gulong Imp. & Exp. Co., Ltd., (79) Xiamen Gulong Import & Export Co., Ltd., (80) Xiamen Huamin Import & Export Co., Ltd., (81) Xiamen International Trade & Industrial Co., Ltd., (82) Xiamen Jiahua Import & Export Trading Co., Ltd., (83) Xiamen Lian Fang Industry Co., Ltd., (84) Xiamen Longstar Lighting Co., Ltd., (85) Xiamen Longhuai Import & Export Co., Ltd., (86) Xiamen Sungiven Import & Export Co., Ltd., (87) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd. (88) Zhangzhou Long Mountain Foods Co., Ltd., (89) Zhangzhou Longhai Minhui Industry & Trade Co. Ltd., (90) Zhangzhou Tan Co. Ltd. Fujian, China, (91) Zhangzhou Tan Co., Ltd., (92) Zhangzhou Tongfa Foods Industry Co., Ltd., (93) Zhangzhou Xiangcheng Rainbow & Greenland Food Co., Ltd., (94) Zhangzhou Yuxing Imp. & Exp. Trading Co., Ltd., (95) Zhangzhou Yuxing Import & Export Trading Co., Ltd., (96) Zhejiang Jinhua Jinli Mushroom Co., Ltd., (97) Zhejiang Iceman Food Co., Ltd., (98) Zhejiang Iceman Group Co., Ltd., and (99) Zhongshan Magic Foodstuff Co., Ltd.

<sup>9</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. In these final results, Dezhou Kaihang's weighted-average dumping margin is zero. Accordingly, we will instruct CBP to liquidate the entries reported by Dezhou Kaihang without regard to antidumping duties. The Department also intends to instruct CBP to liquidate entries of subject merchandise from the exporters identified above as being part of the PRC-wide entity (including Kangfa) at the PRC-wide rate, *i.e.*, 308.33 percent.

Pursuant to a refinement in the Department's non-market economy practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.<sup>10</sup> Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.<sup>11</sup> As noted above, the Department determines that Hongda and Gangchang did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case numbers will be liquidated at the PRC-wide rate.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For Dezhou Kaihang the cash deposit is zero percent; (2) for previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding but received a separate rate in a previous segment, the cash deposit rate will continue to be the exporter-specific rate published for the most recently-completed period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will

<sup>10</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

<sup>11</sup> *Id.*

be that for the PRC-wide entity (*i.e.*, 308.33 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 26, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Issues and Decision Memorandum

Summary  
Background  
Scope of the Order  
Discussion of the Issues

Comment: Whether the Department Should Reaffirm the *Preliminary Results* With Respect to Dezhou Kaihang Recommendation

[FR Doc. 2017-13939 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Five-Year (Sunset) Reviews**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) listed below. The International Trade Commission (the Commission) is publishing concurrently with this notice its notice of *Institution*

of *Five-Year Reviews* which covers the same order(s).

**DATES:** *Effective Date:* July 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department's procedures for the conduct of Sunset Reviews are set forth

in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

**Initiation of Review**

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty order(s):

DOC case No.	ITC case No.	Country	Product	Department contact
A-351-825 .....	731-TA-678	Brazil .....	Stainless Steel Bar (4th Review) .....	Matthew Renkey, (202) 482-2312.
A-570-901 .....	731-TA-1095	China .....	Lined Paper Products (2nd Review) .....	Robert James, (202) 482-0649.
A-570-601 .....	731-TA-344	China .....	Tapered Roller Bearings (4th Review) ..	Robert James, (202) 482-0649.
A-533-843 .....	731-TA-1096	India .....	Lined Paper Products (2nd Review) .....	Robert James, (202) 482-0649.
C-533-844 .....	701-TA-442	India .....	Lined Paper Products (2nd Review) .....	Robert James, (202) 482-0649.
A-533-810 .....	731-TA-679	India .....	Stainless Steel Bar (4th Review) .....	Matthew Renkey, (202) 482-2312.
A-588-833 .....	731-TA-681	Japan .....	Stainless Steel Bar (4th Review) .....	Matthew Renkey, (202) 482-2312.
A-469-805 .....	731-TA-682	Spain .....	Stainless Steel Bar (4th Review) .....	Matthew Renkey, (202) 482-2312.
A-580-867 .....	731-TA-1189	Republic of Korea ..	Large Power Transformers (4th Review)	Jacqueline Arrowsmith, (202) 482-5255.

**Filing Information**

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: <http://enforcement.trade.gov/sunset/>. All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.<sup>1</sup>

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.<sup>2</sup> Parties are hereby reminded that revised certification

requirements are in effect for company/government officials as well as their representatives in these segments.<sup>3</sup> The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).<sup>4</sup> Parties are advised to review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits

for submissions in AD/CVD proceedings, available at <http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt>, prior to submitting factual information in these segments.<sup>5</sup>

**Letters of Appearance and Administrative Protective Orders**

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and

<sup>1</sup> See also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

<sup>2</sup> See section 782(b) of the Act.

<sup>3</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*) (amending 19 CFR 351.303(g)).

<sup>4</sup> See *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013).

<sup>5</sup> See *Extension of Time Limits*, 78 FR 57790 (September 20, 2013).

eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

### Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.<sup>6</sup>

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 21, 2017.

#### Gary Taverman,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2017-13938 Filed 6-30-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[EERE-2017-BT-STD-0048]

#### Energy Conservation Program: Energy Conservation Standards for Dedicated-Purpose Pool Pump Motors; Notice of Public Meeting

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

**ACTION:** Notice of public meeting and webinar.

**SUMMARY:** On January 18, 2017, the U.S. Department of Energy ("DOE") published in the **Federal Register** a direct final rule to establish new energy conservation standards for dedicated purpose pool pumps. These standards did not directly address the efficiency of the motors used in dedicated-purpose pool pumps, particularly in replacement applications. Interested stakeholders have encouraged DOE to initiate a working group to specifically address dedicated-purpose pool pump motors that can be used in replacement applications. Therefore, DOE is announcing a public meeting to gather data and information that could lead to the consideration of energy conservation standards for dedicated-purpose pool pump (DPPPs) motors. The meeting will be held on August 10, 2017.

**DATES:** DOE will hold a public meeting on August 10, 2017 from 10 a.m. to 3 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See the "Public Participation" section of this notice for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue SW., Washington, DC 20585-0121. Please see the, "Public Participation" section of this notice for additional information on attending the public meeting.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeremy Domm, U.S. Department of Energy, Building Technologies Program, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121, (202) 586-9870. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:** On May 26, 2017, DOE published in the **Federal Register** a notice confirming the effective date and compliance date of new energy conservation standards for

dedicated purpose pool pumps (82 FR 24218). These standards were established through a direct final rule published in the **Federal Register** on January 18, 2017 (82 FR 5650) and directly reflect the unanimous consensus of a negotiated rulemaking working group for DPPPs ("the DPPP Working Group"). In comments submitted in response to this direct final rule, four parties commented that they hesitated to support or stated they did not support the direct final rule, despite their participation in the DPPP Working Group and unanimous consensus, because the direct final rule did not address replacement motors that could be used in dedicated-purpose pool pumps. Two parties further encouraged DOE to initiate a working group to specifically address energy conservation standards for dedicated-purpose pool pump motors. (All comments are available for public viewing at <https://www.regulations.gov/docket?D=EERE-2014-BT-STD-0048>.) DOE plans to hold this public meeting to gather data and information that could lead to the consideration of energy conservation standards for dedicated-purpose pool pump motors and to consider the formation of a working group on dedicated-purpose pool pump motors.

### Public Participation

#### Attendance at Public Meeting

The time, date and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify the Appliance and Equipment Standards staff at (202) 586-6636 or [Appliance\\_Standards\\_Public\\_Meetings@ee.doe.gov](mailto:Appliance_Standards_Public_Meetings@ee.doe.gov).

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586-1214 or by email: [Regina.Washington@ee.doe.gov](mailto:Regina.Washington@ee.doe.gov) so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

<sup>6</sup> See 19 CFR 351.218(d)(1)(iii).

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific States and U.S. territories. DHS maintains an updated Web site identifying the State and territory driver's licenses that currently are acceptable for entry into DOE facilities at <https://www.dhs.gov/real-id-enforcement-brief>. A driver's license from a State or territory identified as not compliant by DHS will not be accepted for building entry and one of the alternate forms of ID listed below will be required. Acceptable alternate forms of Photo-ID include U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by States and territories as identified on the DHS Web site (Enhanced licenses issued by these States and territories are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government-issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site: [https://www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=6](https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=6). Participants are responsible for ensuring their systems are compatible with the webinar software.

#### *Procedure for Submitting Prepared General Statements for Distribution*

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

#### *Conduct of Public Meeting*

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other relevant matters. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included on DOE's Web site: [https://www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=6](https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=6). In addition, any person may buy a copy of the transcript from the transcribing reporter.

Issued in Washington, DC, on June 23, 2017.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

[FR Doc. 2017-13928 Filed 6-30-17; 8:45 am]

**BILLING CODE 6450-01-P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

[Docket No. CD17-14-000]

#### **Three Sisters Irrigation District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene**

On June 22, 2017, Three Sisters Irrigation District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed McKenzie Reservoir Hydroelectric Facility Project would have an installed capacity of 300 kilowatts (kW), and would be located on the proposed 5.5-mile-long irrigation pipeline. The project would be located in the town of Sisters, Deschutes County, Oregon.

*Applicant Contact:* Marc Thalacker, P.O. Box 2230, Sisters, OR 97759, Phone No. (541) 549-8815.

*FERC Contact:* Robert Bell, Phone No. (202) 502-6062, email: [robert.bell@ferc.gov](mailto:robert.bell@ferc.gov).

*Qualifying Conduit Hydropower Facility Description:* The proposed project would consist of: (1) A new powerhouse, at the end of the proposed 42-inch-diameter irrigation pipe; (2) one new turbine/generating unit with a total installed capacity of 300 kW; (3) a short tailrace emptying into McKenzie Reservoir, from which irrigation channels provide water to nearby farms; and (4) appurtenant facilities.

The proposed project would have an annual generation capacity of 1,300,000 kWh.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA .....	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA .....	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA .....	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA .....	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

*Preliminary Determination:* The proposed hydroelectric project will be constructed along a penstock pipeline, which is being built to pass water from one reservoir to another for irrigation purposes. The construction of the hydroelectric facility will not alter the pipeline's primary purpose. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY or MOTION TO INTERVENE, as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.<sup>1</sup> All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

*Locations of Notice of Intent:* Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at <http://www.ferc.gov/docs-filing/elibrary.asp> using the "eLibrary" link. Enter the docket number (*i.e.*, CD17-14) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

Dated: June 27, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-13956 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

#### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the

<sup>1</sup> 18 CFR 385.2001-2005 (2016).

decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the

Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link.

Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	File date	Presenter or requester
<i>Prohibited:</i>		
1. CP16-22-000 .....	6-15-2017	Cheryl L. Urban.
<i>Exempt:</i>		
1. P-12966-004 .....	6-12-2017	U.S. Congress. <sup>1</sup>
2. CP16-10-000 .....	6-15-2017	U.S. House Representative. H. Morgan Griffith.
3. P-1494-437 .....	6-16-2017	U.S. Congress. <sup>2</sup>
4. P-2809-034 .....	6-22-2017	FERC Staff. <sup>3</sup>

<sup>1</sup> Senators Orrin G. Hatch and Mike Lee. House Representatives Chris Stewart, Rob Bishop, Jason Chaffetz, and Mia Love.

<sup>2</sup> Senators James M. Inhofe and James Lakeford. House Representatives Markwayne Mullin and Jim Bridenstine.

<sup>3</sup> Telephone Record reporting call on June 20, 2017 with Andrew Qua of Kleinschmidt Associates.

Dated: June 27, 2017.

**Kimberly D. Bose,**

Secretary.

[FR Doc. 2017-13955 Filed 6-30-17; 8:45 am]

BILLING CODE 6717-01-P

**FEDERAL ENERGY REGULATORY COMMISSION**

**Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Number:* PR17-50-000.  
*Applicants:* Rocky Mountain Natural Gas LLC.

*Description:* Tariff filing per 284.123(b),(e)/: Revised Statement of Operating Conditions to be effective 6/22/2017; Filing Type: 1000.

*Filed Date:* 6/21/17.

*Accession Number:* 201706215104.

*Comments/Protests Due:* 5 p.m. ET 7/12/17.

*Docket Numbers:* RP17-836-000.

*Applicants:* Granite State Gas Transmission, Inc.

*Description:* Granite State Gas Transmission, Inc. submits tariff filing per 154.204: Section 4 Rate Change Filing to be effective 8/1/2017.

*Filed Date:* 06/21/2017.

*Accession Number:* 20170621-5066.

*Comment Date:* 5:00 p.m. Eastern Time on Monday, July 3, 2017.

*Docket Numbers:* RP17-837-000.

*Applicants:* MIGC LLC.

*Description:* Annual Fuel Retention Percentage Tracker of MIGC LLC.

*Filed Date:* 06/21/2017.

*Accession Number:* 20170621-5133.

*Comment Date:* 5:00 p.m. Eastern Time on Monday, July 3, 2017.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 22, 2017.

**Nathaniel J. Davis, Sr.**

Deputy Secretary.

[FR Doc. 2017-13962 Filed 6-30-17; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-2487-004; ER15-2380-002.

*Applicants:* Pacific Summit Energy LLC, Willey Battery Utility, LLC.

*Description:* Triennial Market Power Update for the Northeast Region of the Sumitomo Companies, et al.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627-5127.

*Comments Due:* 5 p.m. ET 8/28/17.

*Docket Numbers:* ER10-3069-007; ER10-3070-007.

*Applicants:* Alcoa Power Generating Inc., Alcoa Power Marketing LLC.

*Description:* Southeast Regional Triennial Submission and Notice of Change in Status of the Alcoa Subsidiaries.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627-5126.

*Comments Due:* 5 p.m. ET 8/28/17.

*Docket Numbers:* ER17-1357-001.

*Applicants:* Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

*Description:* Tariff Amendment: Joint OATT DEP and DEC Real Power Loss Factor Deficiency Filing to be effective 6/1/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627-5114.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17-1379-001.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Tariff Amendment: Deficiency Response in ER17-1379—Att AE Section 8.4 Re-Pricing Clarification to be effective 6/3/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627-5123.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17-1916-000.

*Applicants:* Southern Maryland Electric Cooperative, Inc., PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: SMECO submits revisions to OATT, Sch 1A and Att. H-9C re: new distribution rates to be effective 12/31/9998.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627-5120.

*Comments Due:* 5 p.m. ET 7/18/17.



The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 27, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017-13961 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2246-065]

#### **Yuba County Water Agency; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* 2246-065.

c. *Date filed:* April 28, 2014.

d. *Applicant:* Yuba County Water Agency (YCWA).

e. *Name of Project:* Yuba River Development Project.

f. *Location:* The Yuba River Development Project facilities are located on the western slope of the Sierra Nevada on the main stems of the Yuba River, the North Yuba River, the Middle Yuba River, and Oregon Creek (a tributary to the Middle Yuba River) in Yuba, Sierra, and Nevada Counties, California. Portions of the project occupy lands of the Plumas and Tahoe National Forests.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(t).

h. *Applicant Contact:* Curt Aikens, General Manager, Yuba County Water Agency, 1220 F Street, Marysville, California 95901, 530-741-6278.

i. *FERC Contact:* Alan Mitchnick at (202) 502-6074 or [alan.mitchnick@ferc.gov](mailto:alan.mitchnick@ferc.gov).

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-2246-065.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *New Colgate Development:* The New Colgate development consists of the following existing facilities: (1) The 70-foot-high, 368-foot-long Our House diversion dam with a storage capacity of 280 acre-feet, located on the Middle Yuba River 12.0 miles upstream of its confluence with the North Yuba River; (2) the 12.5-foot-high by 12.5-foot-wide, 19,410-foot-long Lohman Ridge diversion tunnel that conveys a maximum flow of 860 cubic feet per second (cfs) from the Middle Yuba River to Oregon Creek; (3) the 42.5-foot-high and 105-foot-radius Log Cabin diversion

dam on Oregon Creek with a storage capacity of 90 acre-feet; (4) the 6,107-foot-long Camptonville diversion tunnel, with the capacity to convey 1,100 cfs of water to New Bullards Bar reservoir on the North Yuba River; (5) the 645-foot-high, 2,323-foot-long New Bullards Bar dam located on the North Yuba River about 2.3 miles upstream of its confluence with the Middle Yuba River, with an actual release capacity of 1,250 cfs; (6) the New Bullards Bar reservoir, a storage reservoir on the North Yuba River formed by New Bullards Bar dam, with a storage area of 4,790 acres; (7) the New Bullards Bar dam overflow-type spillway with a width of 106 feet and a crest elevation of 1,902 feet; (8) the 5.2-mile-long New Colgate Power tunnel and penstock, with a maximum flow capacity of 3,500 cfs; (9) the New Colgate powerhouse, located adjacent to the Yuba River containing two Pelton type turbines with a total generating capacity of 315 megawatts (MW); (10) the New Colgate switchyard, located adjacent to the New Colgate powerhouse; (11) recreation facilities on New Bullards Bar reservoir, including Emerald Cove Marina, Hornswoggle Group Camp, Schoolhouse Family Camp, Dark Day Campground, Dark Day Boat Ramp, Garden Point Campground, Madrone Cove Campground, and Cottage Creek Boat Ramp; and (12) appurtenant facilities and features including access roads.

YCWA proposes to: (1) Construct a flood control outlet at New Bullards Bar dam; (2) construct a tailwater depression system at New Colgate powerhouse; (3) modify the Our House diversion dam fish release outlet; (4) modify the Log Cabin diversion dam fish release outlet; (5) modify the Lohman Ridge diversion tunnel intake; (6) modify recreation facilities at New Bullards Bar reservoir, including construction of Kelly Ridge campground and recreation vehicle dump station; and (7) modify project roads.

*New Bullards Bar Minimum Flow Development:* The New Bullards Bar Minimum Flow Development consists of the following existing facilities: (1) The 70-foot long, 12-inch-diameter New Bullards minimum flow powerhouse penstock with a maximum flow capacity of 6 cfs; (2) the New Bullards minimum flow powerhouse, containing a single Pelton turbine with a capacity of 150 kilowatts; (3) the New Bullards minimum flow transformer, located adjacent to the New Bullards minimum flow powerhouse; and (4) appurtenant facilities and features, including access roads.

*Narrows 2 Development:* The Narrows 2 Development consists of the following



existing facilities: (1) The Narrows 2 powerhouse penstock, a tunnel that is 20 feet in diameter and concrete lined in the upper 376 feet, and 14 feet in diameter and steel lined for the final 371.5 feet, with a maximum flow capacity of 3,400 cfs; (2) the Narrows 2 flow bypass, a valve and penstock branch off the main Narrows 2 penstock that provides the capability to bypass flows of up to 3,000 cfs around the Narrows 2 powerhouse during times of full or partial powerhouse shutdowns; (3) the Narrows 2 powerhouse, an indoor powerhouse located at the base of the U.S. Army Corps of Engineers' Englebright dam, consisting of one vertical axis Francis turbine with a generating capacity of 46.7 MW; (4) the Narrows 2 powerhouse switchyard, located adjacent to the powerhouse; and (5) appurtenant facilities and features, including access roads.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at <http://www.ferc.gov/docs-filing/subscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, PRELIMINARY TERMS AND CONDITIONS, or PRELIMINARY FISHWAY PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person

protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule:* The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	August 2017.
Commission issues Draft Environmental Statement (EIS).	March 2018.
Comments on Draft EIS ... Modified Terms and Conditions.	May 2018. July 2018.
Commission Issues Final EIS.	October 2018.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: June 26, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017-13964 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RC11-6-005]

#### North American Electric Reliability Corporation; Notice Of Staff Review Of Compliance Programs

Commission staff coordinated with the staff of the North American Electric Reliability Corporation (NERC) to conduct the annual oversight of the Find, Fix, Track and Report (FFT) program, as outlined in the March 15, 2012 Order,<sup>1</sup> and the Compliance Exception (CE) Program, as proposed by NERC's September 18, 2015 annual Compliance Filing.<sup>2</sup> The Commission supported NERC's plan to coordinate with Commission staff to review the same sample of possible violations, thereby reducing the burden on the Regional Entities of providing evidence for two different samples. Commission staff reviewed a sample of 23 FFT possible violations out of 46 FFT possible violations posted by NERC between October 2015 and September 2016 and a sample of 100 CE instances of noncompliance out of 470 CE instances of noncompliance posted by NERC between October 2015 and September 2016.

Commission staff believes that the FFT and CE programs are meeting expectations with limited exceptions. Sampling for the 2016 program year indicated that the Regional Entities appropriately included 97.5 percent of the sampled possible violations in the FFT and CE programs and that all 123 possible violations have been adequately remediated. Commission staff's sample analysis indicated a decreasing number of documentation concerns, particularly with regard to the quality of the information contained in the FFT and/or CE postings. For example, Commission staff found that a few FFT or CE issues still lacked some of the information requested in NERC's Guidance for Self Reports document and necessary for the posted FFT or CE.<sup>3</sup> This includes information such as start

<sup>1</sup> *North American Electric Reliability Corp.*, 138 FERC 61,193, at P 73 (2012) (discussing Commission plans to survey a random sample of FFTs submitted each year to gather information on how the FFT program is working).

<sup>2</sup> *North American Electric Reliability Corp.*, Docket No. RC11-6-004, at 1 (Nov. 13, 2015) (delegated letter order) (stating NERC's intention to combine the evaluation of Compliance Exceptions with the annual sampling of FFTs to further streamline oversight of the FFT and compliance exception programs).

<sup>3</sup> *North American Electric Reliability Corp.*, 138 FERC 61,193, at P 60 (2012).

or end dates, or root cause. Specifically, the identification of root cause has improved significantly over the past three years, moving from 38 percent missing an identification of root cause to less than 2 percent. Commission staff subsequently reviewed the supporting information for these FFTs or CEs, which provided a majority of the missing information. Commission staff ultimately agreed with the final risk determinations for 120 of the 123 samples. Commission staff also noted a significant improvement in the clear identification of factors affecting the risk prior to mitigation (such as potential and actual risk), and actual harm, which was identified in all samples. In addition, Commission staff noted that the FFTs and CEs sampled did not contain any material misrepresentations by the registered entities.

Dated: June 27, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-13954 Filed 6-30-17; 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:* RP17-838-000.

*Applicants:* Kern River Gas Transmission Company.

*Description:* Kern River Gas Transmission Company submits tariff filing per 154.204: 2017 June Citadel Negotiated Rate to be effective 6/23/2017.

*Filed Date:* 06/22/2017.

*Accession Number:* 20170622-5158.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 5, 2017.

*Docket Numbers:* RP17-839-000.

*Applicants:* Kern River Gas Transmission Company.

*Description:* Kern River Gas Transmission Company submits tariff filing per 154.204: 2017 June Exelon Negotiated Rate to be effective 6/24/2017.

*Filed Date:* 06/23/2017.

*Accession Number:* 20170623-5046.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 5, 2017.

*Docket Numbers:* RP17-840-000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2017-06-23 ConocoPhillips to be effective 6/24/2017.

*Filed Date:* 06/23/2017.

*Accession Number:* 20170623-5152.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, July 5, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 26, 2017.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2017-13963 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP17-15-000]

#### Dominion Cove Point LNG, LP; Notice of Availability of the Environmental Assessment for the Proposed Eastern Market Access Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Eastern Market Access Project, proposed by Dominion Cove Point LNG, LP (DCP) in the above-referenced docket. DCP requests authorization to construct, install, modify, own, operate, and maintain natural gas facilities in Virginia and Maryland to provide 294,000 dekatherms per day of firm natural gas transportation service to Washington Gas Light Company and Mattawoman Energy, LLC's Mattawoman Energy Center, a power generation facility.

The EA assesses the potential environmental effects of the construction and operation of the

Eastern Market Access Project in accordance with the requirements of the National Environmental Policy Act (NEPA). 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 Eastern Market Access Project includes the following facilities:

- A new 24,370-horsepower (hp) natural gas compressor station and ancillary facilities, and two new taps for customer delivery at the existing Washington Gas Light Company Interconnect in Charles County, Maryland;
- one new 7,000-hp electric reciprocating compressor unit and discharge gas cooler, replacement of three gas coolers and compression cylinders for three existing compressors, and an increase to 30-inch-diameter discharge piping at the Loudoun Compressor Station in Loudoun County, Virginia;
- one new meter building to enclose existing equipment at the Loudoun Metering and Regulating Station in Loudoun County, Virginia; and
- re-wheeling of the compressor on an existing 17,400-hp electric unit and upgrading of two gas coolers at the Pleasant Valley Compressor Station in Fairfax County, Virginia.

The FERC staff mailed copies of 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. In addition, the EA is available for public viewing on the FERC's Web site ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502-8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the 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 July 27, 2017.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP17-15-000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502-8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

(1) You can file your comments electronically using the eComment feature on the Commission's Web site ([www.ferc.gov](http://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 Web site ([www.ferc.gov](http://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: 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).<sup>1</sup> Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants 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 Web site ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, CP17-15). Be sure you have selected an appropriate date range. For assistance,

<sup>1</sup> See the previous discussion on the methods for filing comments.

please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of 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](http://www.ferc.gov/docs-filing/esubscription.asp).

Dated: June 27, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017-13951 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project Nos. 10675-019; 10676-024; 10677-021; 10678-024]

#### Essential Power Massachusetts, LLC, Nautilus Hydro, LLC; Notice of Transfer of Exemptions

1. By letter filed May 15, 2017, Essential Power Massachusetts, LLC informed the Commission that the exemptions from licensing for the Dwight Project No. 10675, originally issued September 11, 1992,<sup>1</sup> the Red Bridge Project No. 10676, originally issued September 11, 1992,<sup>2</sup> the Putts Project No. 10677, originally issued September 11, 1992,<sup>3</sup> and the Indian Orchard Project No. 10678, originally issued September 11, 1992,<sup>4</sup> have been transferred to Nautilus Hydro, LLC. The projects are located on the Chicopee River in Hampden County, Massachusetts. The transfer of an exemption does not require Commission approval.

2. Nautilus Hydro, LLC is now the exemptee of the Dwight Project No.

<sup>1</sup> Order Granting Exemption From Licensing (5 MW or Less). *Western Massachusetts Electric Company*, 60 FERC 62,199 (1992).

<sup>2</sup> Order Granting Exemption From Licensing (5 MW or Less). *Western Massachusetts Electric Company*, 60 FERC 62,198 (1992).

<sup>3</sup> Order Granting Exemption From Licensing (5 MW or Less). *Western Massachusetts Electric Company*, 60 FERC 62,197 (1992).

<sup>4</sup> Order Granting Exemption From Licensing (5 MW or Less). *Western Massachusetts Electric Company*, 60 FERC 62,196 (1992).

10675, the Red Bridge Project No. 10676, the Putts Project No. 10677, and the Indian Orchard Project No. 10678. All correspondence should be forwarded to: Mr. Jacob A. Pollack, Vice President and Secretary, Nautilus Hydro, LLC, 9405 Arrowpoint Blvd., Charlotte, NC 28273.

Dated: June 27, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017-13957 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER17-1607-000; ER17-1608-000.

*Applicants:* Sunray Energy 2, LLC, Sunray Energy 3 LLC.

*Description:* Supplement to May 15, 2017 Sunray Energy 2, LLC, et al. tariff filings.

*Filed Date:* 6/21/17.

*Accession Number:* 20170621-5197.

*Comments Due:* 5 p.m. ET 7/12/17.

*Docket Numbers:* ER17-1666-001.

*Applicants:* Red Pine Wind Project, LLC.

*Description:* Tariff Amendment: Red Pine Wind Project Amendment to Pending Market-Based Rate Application Filing to be effective 7/23/2017.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626-5167.

*Comments Due:* 5 p.m. ET 7/17/17.

*Docket Numbers:* ER17-1907-000.

*Applicants:* Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

*Description:* § 205(d) Rate Filing: 2017-06-26 SA 3019 OTP-MPC FCA (T16-03) to be effective 6/27/2017.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626-5153.

*Comments Due:* 5 p.m. ET 7/17/17.

*Docket Numbers:* ER17-1908-000.

*Applicants:* Blue Sky West, LLC.

*Description:* § 205(d) Rate Filing:

Category 1 Status Northeast Region to be effective 6/27/2017.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626-5157.

*Comments Due:* 5 p.m. ET 7/17/17.

*Docket Numbers:* ER17-1909-000.

*Applicants:* Bayshore Solar C, LLC.

*Description:* Baseline eTariff Filing: Bayshore Solar C, LLC MBR Tariff to be effective 8/26/2017.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626–5165.

*Comments Due:* 5 p.m. ET 7/17/17.

*Docket Numbers:* ER17–1910–000.

*Applicants:* Evergreen Wind Power II, LLC.

*Description:* § 205(d) Rate Filing: Category 1 Seller Status Northeast Region to be effective 6/27/2017.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626–5169.

*Comments Due:* 5 p.m. ET 7/17/17.

*Docket Numbers:* ER17–1911–000.

*Applicants:* Sundevil Power Holdings, LLC.

*Description:* Tariff Cancellation: Cancellation of Market Based Rate Tariff to be effective 6/28/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627–5045.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17–1912–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 1266R7 Kansas Municipal Energy Agency NITSA and NOA to be effective 6/1/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627–5053.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17–1913–000.

*Applicants:* Entergy Nuclear FitzPatrick, LLC.

*Description:* Tariff Cancellation: ENF Notice of Cancellation of Market-Based Rate Tariff to be effective 8/28/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627–5070.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17–1914–000.

*Applicants:* Tucson Electric Power Company.

*Description:* § 205(d) Rate Filing: Transmission Service Agreement Nos. 381 and 389 to be effective 5/28/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627–5080.

*Comments Due:* 5 p.m. ET 7/18/17.

*Docket Numbers:* ER17–1915–000.

*Applicants:* NSTAR Electric Company.

*Description:* § 205(d) Rate Filing: Design and Engineering Agreement with Essential Power Newington, LLC to be effective 8/26/2017.

*Filed Date:* 6/27/17.

*Accession Number:* 20170627–5095.

*Comments Due:* 5 p.m. ET 7/18/17.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR17–6–000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* Petition of the North American Electric Reliability

Corporation for Approval of Proposed Revisions to the Rules of Procedure.

*Filed Date:* 6/26/17.

*Accession Number:* 20170626–5171.

*Comments Due:* 5 p.m. ET 7/17/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 27, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017–13968 Filed 6–30–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ID–8241–000]

#### Fowler, Chad N.; Notice of Filing

Take notice that on June 23, 2017, Chad N. Fowler, submitted for filing an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45 (2016) and Order No. 664.<sup>1</sup>

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

<sup>1</sup> Commission Authorization to Hold Interlocking Positions, 112 FERC ¶ 61,298 (2005) (Order No. 664); order on reh'g, 114 FERC ¶ 61,142 (2006) (Order No. 664–A).

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time on July 14, 2017.

Dated: June 26, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017–13965 Filed 6–30–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2891–017]

#### City of Tallahassee; Notice of Application for Surrender of License, Soliciting Comments, Motions to Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Application for surrender of license.

b. *Project No.:* 2891–017.

c. *Date Filed:* June 5, 2017.

d. *Licensee:* City of Tallahassee.

e. *Name of Project:* Jackson Bluff Hydroelectric Project.

f. *Location:* The project is located on the Ochlockonee River in Leon, Liberty, and Gadsden Counties, Florida.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Mr. Robert McGarrh, General Manager, City of

Tallahassee Electric Department, 2602 Jackson Bluff Road, Tallahassee, FL 32304.

i. *FERC Contact*: Ms. Diana Shannon, (202) 502-6136, [Diana.shannon@ferc.gov](mailto:Diana.shannon@ferc.gov).

j. Deadline for filing comments, interventions, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-2891-017.

k. *Description of Request*: The licensee proposes to surrender the project. No ground disturbance is associated with the proposed surrender and project features will remain in place. To maintain lake levels, releases will be through the spillway gates and not through the powerhouse. The licensee has determined that a combination of a lower cost of competing renewable resources and the cost of obtaining a new license make it uneconomical to continue operating the project. The current license expires on June 30, 2022.

l. This filing may be viewed on the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*: Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate the temporary variance that is the subject of this notice. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 27, 2017.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2017-13953 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers*: ER10-1533-013; ER10-2374-012.

*Applicants*: Puget Sound Energy, Inc., Macquarie Energy LLC.

*Description*: Second Supplement to June 30, 2016 Updated Market Power Analysis for the Northwest Region of Puget Sound Energy, Inc., et al.

*Filed Date*: 6/23/17.

*Accession Number*: 20170623-5171.

*Comments Due*: 5 p.m. ET 7/14/17.

*Docket Numbers*: ER10-2822-010; ER16-1250-002; ER11-2112-008; ER10-2828-004; ER10-2285-006; ER16-2285-002; ER10-2423-008; ER10-2404-008; ER10-2812-014; ER10-1291-021; ER10-2843-013; ER12-2649-004; ER10-1725-004; ER10-3001-005; ER10-3002-004; ER10-3004-005; ER12-422-006; ER10-2301-004; ER10-3010-004; ER10-2306-004; ER12-96-006; ER10-3031-004; ER10-3160-003; ER16-1637-002.

*Applicants*: Atlantic Renewable Projects II LLC, Blue Creek Wind Farm LLC, Casselman Windpower LLC, Central Maine Power Company, Desert Wind Farm LLC, Flat Rock Windpower LLC, Flat Rock Windpower II LLC, GenConn Devon LLC, GenConn Energy LLC, GenConn Middletown LLC, Groton Wind, LLC, Hardscrabble Wind Power LLC, Lempser Wind, LLC, Locust Ridge Wind Farm, LLC, Locust Ridge II, LLC, New England Wind, LLC, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, South Chestnut LLC, Streater-Cayuga Ridge Wind Power LLC, The United Illuminating Company, UIL Distributed Resources, LLC, Providence Heights Wind, LLC, Avangrid Renewables, LLC.

*Description*: Response to May 11, 2017 Letter requesting additional information of AVANGRID Northeast MBR Sellers.

*Filed Date*: 6/26/17.

*Accession Number*: 20170626-5081.

*Comments Due*: 5 p.m. ET 7/17/17.

*Docket Numbers*: ER11-2534-006; ER12-539-008; ER12-540-008; ER16-2234-002.

*Applicants*: APDC, Inc., Atlantic Power Energy Services (US) LLC, EF Kenilworth LLC, Morris Cogeneration, LLC.

*Description*: Updated Market Power Analysis for the Northeast Region of APDC, Inc., et al.

*Filed Date:* 6/23/17.  
*Accession Number:* 20170623–5090.  
*Comments Due:* 5 p.m. ET 8/22/17.  
*Docket Numbers:* ER17–1494–001.  
*Applicants:* Vista Energy Storage, LLC.

*Description:* Tariff Amendment: Amendment to Application for Market-Based Rate Authorization to be effective 7/1/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5102.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1508–001.  
*Applicants:* Golden Spread Electric Cooperative, Inc.

*Description:* Tariff Amendment: OATT Attachment R Amendment Clarification to be effective 7/1/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5103.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER15–1905–006.  
*Applicants:* Amazon Energy LLC.  
*Description:* Triennial Market Power

Update for the Northeast Region of Amazon Energy LLC.

*Filed Date:* 6/23/17.  
*Accession Number:* 20170623–5168.  
*Comments Due:* 5 p.m. ET 8/22/17.  
*Docket Numbers:* ER17–1893–000.  
*Applicants:* Cricket Valley Energy Center, LLC.

*Description:* Petition for Limited Waiver of Tariff Deadline and Request for Expedited Action of Cricket Valley Energy Center, LLC.

*Filed Date:* 6/23/17.  
*Accession Number:* 20170623–5095.  
*Comments Due:* 5 p.m. ET 7/14/17.  
*Docket Numbers:* ER17–1897–000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Attachment AE Clean-Up Filing to be effective 3/1/2014.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5046.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1898–000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 2041R6 Kansas City Board of Public Utilities PTP Agreement to be effective 9/1/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5066.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1899–000.  
*Applicants:* San Diego Gas & Electric Company.

*Description:* Annual Filing of Revised Costs and Accruals for Post-Employment Benefits Other than Pensions of San Diego Gas & Electric Company.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5071.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1900–000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 1636R19 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 9/1/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5089.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1901–000.  
*Applicants:* Duke Energy Progress, LLC.

*Description:* Tariff Cancellation: DEP SA Cancellation Filing to be effective 6/27/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5104.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1902–000.  
*Applicants:* Brayton Point Energy, LLC.

*Description:* Tariff Cancellation: Notice of Cancellation to be effective 6/27/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5133.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1903–000.  
*Applicants:* Dynegy Conesville, LLC.  
*Description:* Tariff Cancellation:

Notice of Cancellation to be effective 6/27/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5140.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1904–000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 2065R3 Westar Energy, Inc. NITSA and NOA to be effective 6/1/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5145.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1905–000.  
*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original Service Agreement No. 4737; Queue Position AG1–025 (WMPA) to be effective 5/31/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5146.  
*Comments Due:* 5 p.m. ET 7/17/17.  
*Docket Numbers:* ER17–1906–000.  
*Applicants:* Lake Road Generating Company, LLC.

*Description:* Compliance filing: Notice of Succession and Revisions to Market-Based Rate Tariff to be effective 6/27/2017.

*Filed Date:* 6/26/17.  
*Accession Number:* 20170626–5147.

*Comments Due:* 5 p.m. ET 7/17/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017–13967 Filed 6–30–17; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER17–1847–000]

#### Moxie Freedom LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Moxie Freedom 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 July 17, 2017.

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 Web site 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 27, 2017.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2017-13952 Filed 6-30-17; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Loveland Area Projects—Rate Order No. WAPA-179

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of proposed firm electric service and Sale of Surplus Products rates.

**SUMMARY:** The Western Area Power Administration (WAPA) is proposing revised rates for the Loveland Area Projects (LAP) firm electric service and modifications to the existing rate schedule for Sale of Surplus Products. Current firm electric service rates, under Rate Schedule L-F10, are in effect through December 31, 2019, and the formula rate for the sale of surplus products, under Rate Schedule L-M1, is in effect through September 30, 2021. LAP consists of the Fryingspan-Arkansas Project (Fry-Ark) and the Pick-Sloan Missouri Basin Program (P-SMBP)—Western Division (WD), which were

integrated for marketing and rate-making purposes in 1989.

WAPA is proposing to lower the overall LAP firm electric service charges by 14 percent, as a result of rebalancing the charge components in formula-based Rate Schedule L-F10 by reducing the drought adder component and increasing the base component. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay investments within the allowable periods. In addition, WAPA is proposing to modify Rate Schedule L-M1, which allows for the sale of generation and generation-related products in excess of LAP's firm electric service obligations, to add "energy" as a surplus product. WAPA will prepare a brochure providing detailed information on these proposed rates prior to the public information forums listed below. This brochure will be posted to WAPA's Web site at: <https://www.wapa.gov/regions/RM/rates/Pages/2018-Rate-Adjustment---Firm-Power.aspx>. If approved, the proposed rates under Rate Schedules L-F11 and L-M2 would become effective on January 1, 2018, and would remain in effect through December 31, 2022, or until superseded. Publication of this **Federal Register** notice begins the formal process for the proposed rate adjustment and proposed rate modifications.

**DATES:** The consultation and comment period will begin July 3, 2017 and end October 2, 2017. WAPA will present a detailed explanation of the proposed rates and other modifications at public information forums on the following dates and times:

1. August 22, 2017, 9:00 a.m. to 10:30 a.m. MDT, Denver, Colorado.

2. August 23, 2017, 9:00 a.m. to 10:30 a.m. CDT, Sioux Falls, South Dakota.

WAPA will accept oral and written comments at public comment forums on the following dates and times:

1. August 22, 2017, 11:00 a.m. to no later than 12 noon MDT, Denver, Colorado.

2. August 23, 2017, 11:00 a.m. to no later than 12 noon CDT, Sioux Falls, South Dakota.

WAPA will accept written comments anytime during the consultation and comment period.

**ADDRESSES:** Written comments and requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed rates submitted by WAPA to FERC for approval should be sent to: Michael D. McElhany, Acting Regional Manager, Rocky Mountain Region, Western Area

Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986 or email [lapfirmadj@wapa.gov](mailto:lapfirmadj@wapa.gov). Information regarding the rate process is posted on WAPA's Web site at: <https://www.wapa.gov/regions/RM/rates/Pages/2018-Rate-Adjustment---Firm-Power.aspx>. WAPA will post official comments received via letter and email to its Web site after the close of the comment period. WAPA must receive written comments by the end of the consultation and comment period to ensure they are considered in WAPA's decision process.

Public information and comment forum locations are:

1. Denver—Embassy Suites, 7001 Yampa Street, Denver, Colorado.

2. Sioux Falls—Holiday Inn, 100 West 8th Street, Sioux Falls, South Dakota.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986, telephone (970) 461-7211, email [lapfirmadj@wapa.gov](mailto:lapfirmadj@wapa.gov) or [scook@wapa.gov](mailto:scook@wapa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Firm Electric Service

On December 2, 2014, the Deputy Secretary of Energy approved, on an interim basis, Rate Schedule L-F10 under Rate Order No. WAPA-167 for the period beginning January 1, 2015, and ending December 31, 2019 (79 FR 72663-72670 (Dec. 8, 2014)).<sup>1</sup> This Rate Schedule is formula-based, providing for downward adjustments to the drought adder component.<sup>2</sup> On January

<sup>1</sup> FERC confirmed and approved Rate Order WAPA-167 on a final basis on June 25, 2015, in Docket No. EF15-4-000. See *United States Department of Energy, Western Area Power Administration (Loveland Area Projects)*, 151 FERC ¶ 62,222.

<sup>2</sup> The drought adder component is a formula-based revenue requirement that includes future purchase power above timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. See 72 FR 64061 (November 14, 2007). The drought adder was added as a component to the energy and capacity rates in Rate Order No. WAPA-134, which was approved by the Deputy Secretary on an interim basis on November 14, 2007, (72 FR 64061). FERC confirmed and approved Rate Order WAPA-134 on a final basis on May 16, 2008, in Docket No. EF08-5181. See *United States Department of Energy, Western Area Power Administration (Loveland Area Projects)*, 123 FERC ¶ 62,137. Western reviews the drought adder each September to determine if drought costs differ from those projected in the Power Repayment Study and whether an adjustment to the drought adder is necessary. See 72 FR at 64065. The drought adder may be adjusted downward using the approved annual drought adder adjustment process, whereas an incremental upward adjustment to the drought adder component greater than the equivalent of 2 mills/kWh requires a public rate process. See 72 FR at 64065.



1, 2017, the drought adder component of the LAP effective rate schedule was adjusted downward recognizing repayment of drought costs included in the drought adder component of the approved formula rates. The formula-based drought adder component needs to be adjusted down to zero in 2018. Such adjustment can be made using the approved annual drought adder adjustment process; however, since any

adjustment to the base component must be done through a public rate process, WAPA now proposes to adjust both the base and drought adder components in Rate Schedule L-F10 through a rate adjustment process. WAPA proposes to adjust the formula-based drought adder component down to zero in 2018, while the base component will be adjusted upward to address present costs. The Fry-Ark and P-SMBP Fiscal Year 2016

Power Repayment Studies (PRS) revenue requirements and current water conditions are the determining factors for this proposed rate adjustment.

The proposed annual revenue requirement for LAP firm electric service is \$64.1 million. The existing charges in the current rate schedule are being reduced, as indicated in Table 1:

TABLE 1—SUMMARY OF CURRENT AND PROPOSED REVENUE REQUIREMENT AND RATES

Firm electric service	Current— under L-F10 with adjusted drought adder as of January 1, 2017	Proposed— under L-F11 as of January 1, 2018	Percent change
LAP Revenue Requirement (million \$) .....	\$74.5	\$64.1	- 14
LAP Composite Rate (mills/kWh) .....	36.56	31.44	- 14
Firm Energy Rate (mills/kWh) .....	18.28	15.72	- 14
Firm Capacity Rate (\$/kWmonth) .....	\$4.79	\$4.12	- 14

Under the current rate methodology, rates for LAP firm electric service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other expenses within the allowable period. The annual revenue requirement continues to be allocated equally between capacity and energy.

WAPA is proposing to place Rate Schedule L-F11 into effect for the 5-year period beginning January 1, 2018, through December 31, 2022. The proposed adjustment updates the base component with present costs and reduces the drought adder component to zero, as the drought-related debts are projected to be fully repaid in 2018.

Base component costs for the P-SMBP—WD have increased primarily due to inflationary annual and capital cost increases associated with incorporating three new out-year projections into the 5-year cost evaluation period into the current rate-setting PRS. Additional details of the P-SMBP PRS are explained in the P-SMBP—Eastern Division Rate Order No. WAPA-180.

Base component costs for Fry-Ark have decreased, even though the three new out-year projections for annual expenses and capital costs within the 5-year cost evaluation period include inflation. This decrease is caused by the annual expense projections in the current Fry-Ark rate-setting PRS being

an average of \$0.3 million per year lower than the annual expense projections in the previous rate-setting PRS. In addition to lower annual expenses, ancillary service revenue projections have also increased an average of \$1.1 million per year over the previous projections; resulting in a net revenue increase of approximately \$1.4 million per year. This net revenue helps offset the revenue requirement for firm electric service.

The net effect of these adjustments to the drought adder and base components results in an overall decrease to the LAP rate. A comparison of the current and proposed revenue requirements is shown in Table 2:

TABLE 2—SUMMARY OF CURRENT AND PROPOSED REVENUE REQUIREMENTS

Firm electric service	Current— under L-F10 with adjusted drought adder as of January 1, 2017	Proposed— under L-F11 as of January 1, 2018	Percent change
LAP Revenue Requirement (million \$) .....	\$74.5	\$64.1	- 14
Pick-Sloan—WD .....	59.2	50.8	- 14
Fry-Ark .....	15.3	13.3	- 13

As a part of the current and proposed rate schedules, WAPA provides for a formula-based adjustment of the drought adder component of up to 2 mills/kWh. The 2 mills/kWh cap places a limit on the amount the drought adder component can be adjusted relative to associated drought costs to recover costs attributable to the drought adder

formula rate for any one-year cycle. Continuing to identify the firm electric service revenue requirement using base and drought adder components will assist WAPA in the presentation of future impacts of droughts, demonstrate repayment of drought-related costs in the PRSs, and allow WAPA to be more responsive to changes caused by

drought-related expenses. WAPA will continue to charge and bill its customers firm electric service rates for energy and capacity, which are the sum of the base and drought adder components. A comparison of the current and proposed components is shown in Table 3:



TABLE 3—SUMMARY OF LAP CHARGE COMPONENTS

	Existing charges under rate schedule L–F10 with adjusted drought adder as of January 1, 2017			Proposed charges under rate schedule L–F11 as of January 1, 2018			Percent change
	Base component	Drought adder component	Total charge	Base component	Drought adder component	Total charge	
Firm Capacity (/kWmonth)	\$3.92	\$0.87	\$4.79	\$4.12	\$0	\$4.12	– 14
Firm Energy (mills/kWh) ....	14.95	3.33	18.28	15.72	0	15.72	– 14

**Sale of Surplus Products**

On August 12, 2016, the Deputy Secretary of Energy approved, on an interim basis, Rate Schedule L–M1 under Rate Order No. WAPA–174, for the period beginning October 1, 2016, and ending September 30, 2021 (81 FR 56632–56652 (August 22, 2016)).<sup>3</sup> This Rate Schedule is formula-based, providing for LAP Marketing to sell LAP surplus energy and capacity products. If LAP surplus products are available, as specified in the rate schedule, the charge will be based on market rates plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s) for which a separate charge may be incurred. The rate schedule currently allows for the sale of reserves, regulation, and frequency response. WAPA is proposing to add “energy” as a fourth surplus product offered under this rate schedule. WAPA is proposing to place Rate Schedule L–M2 into effect for the 5-year period beginning January 1, 2018, through December 31, 2022.

**Legal Authority**

The proposed rates constitute a major rate adjustment, as defined by 10 CFR 903.2(e); therefore, WAPA will hold public information and public comment forums for this rate adjustment, pursuant to 10 CFR 903.15 and 903.16. WAPA will review all timely public comments and make amendments or adjustments to the proposals as appropriate. Proposed rates will be forwarded to the Deputy Secretary of Energy for approval on an interim basis.

WAPA is establishing firm electric service rates and sale of surplus products formula rates under the Department of Energy (DOE) Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of

the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to WAPA’s Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

**Availability of Information**

All brochures, studies, comments, letters, memorandums, or other documents WAPA initiates or uses to develop the proposed rates will be available for inspection and copying at the Rocky Mountain Regional Office located at 5555 East Crossroads Boulevard, Loveland, Colorado. These documents and supporting information will be posted on WAPA’s Web site as they become available under the “2018 Rate Adjustment—Firm Power” section located at: <https://www.wapa.gov/regions/RM/rates/Pages/2018-Rate-Adjustment--Firm-Power.aspx>.

**Ratemaking Procedure Requirements**

*Environmental Compliance*

In compliance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321–4347; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), WAPA is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

*Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: June 27, 2017.

**Mark A. Gabriel,**  
Administrator.

[FR Doc. 2017–13980 Filed 6–30–17; 8:45 am]

**BILLING CODE 6450–01–P**

**DEPARTMENT OF ENERGY**

**Western Area Power Administration**

**Pick-Sloan Missouri Basin Program—Eastern Division-Rate Order No. WAPA–180**

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Proposed Firm Power Service and Sale of Surplus Products Rates.

**SUMMARY:** Western Area Power Administration (WAPA) is proposing revised rates for Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP—ED) firm power and firm peaking power service, and a new formula rate for sales of surplus products. Current firm power and firm peaking power service rates, under Rate Schedules P–SED–F12 and P–SED–FP12, are in effect through December 31, 2019.

WAPA is proposing to lower the overall charges for firm power and firm peaking power service by 19 percent, as a result of rebalancing the charge components in formula-based Rate Schedules P–SED–F12 and P–SED–FP12 by reducing the drought adder component, increasing the base component, and removing the voltage discount. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay investments within the allowable periods. In addition, WAPA is proposing a new formula rate for the sale of surplus products under Rate Schedule P–SED–M1. This new

<sup>3</sup>FERC confirmed and approved Rate Order WAPA–174 on a final basis on March 9, 2017, in Docket Nos. EF16–5–000 and EF16–5–001. See *United States Department of Energy, Western Area Power Administration (Loveland Area Projects)*, 158 FERC ¶ 62,181.

rate schedule will allow for the sale of generation and generation-related products in excess of WAPA's P-SMBP—ED firm power obligations at market rates. WAPA will prepare a brochure providing detailed information on these proposed rates prior to the public information forums listed below. This brochure will be posted to WAPA's Web site at <https://www.wapa.gov/regions/UGP/rates/Pages/2018-firm-rate-adjustment.aspx>. If approved, the proposed rates, under Rate Schedules P—SED—F13, P—SED—FP13, and P—SED—M1 would become effective on January 1, 2018, and would remain in effect through December 31, 2022, or until superseded. Publication of this **Federal Register** notice begins the formal process for the proposed rate adjustment and new sale of surplus products formula rate.

**DATES:** The consultation and comment period will begin July 3, 2017 and end October 2, 2017. WAPA will present a detailed explanation of the proposed rates and other modifications at public information forums being held on the following dates and times:

1. August 22, 2017, 9:00 a.m. to 10:30 a.m. MDT, Denver, Colorado.
2. August 23, 2017, 9:00 a.m. to 10:30 a.m. CDT, Sioux Falls, South Dakota.

WAPA will accept oral and written comments at public comment forums on the following dates and times:

1. August 22, 2017, 11:00 a.m. to no later than 12 noon MDT, Denver, Colorado.
2. August 23, 2017, 11:00 a.m. to no later than 12 noon CDT, Sioux Falls, South Dakota.

WAPA will accept written comments anytime during the consultation and comment period.

**ADDRESSES:** Written comments and/or requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed rates submitted by WAPA to FERC for approval should be sent to: Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, 6th Floor, Billings, MT 59101-1266, or email [ugpfirmrate@wapa.gov](mailto:ugpfirmrate@wapa.gov).

Information about this rate process is posted on WAPA's Web site at <https://www.wapa.gov/regions/UGP/rates/Pages/2018-firm-rate-adjustment.aspx>. WAPA will post official comments received via letter and email to its Web site after the close of the comment period. WAPA must receive written comments by the end of the consultation and comment period to ensure they are considered in WAPA's decision process.

Public information and comment forum locations are:

1. Denver—Embassy Suites, 7001 Yampa Street, Denver, Colorado.
2. Sioux Falls—Holiday Inn, 100 West 8th Street, Sioux Falls, South Dakota.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Linda Cady-Hoffman, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, 6th Floor, Billings, MT 59101-1266, telephone: (406) 255-2920, email: [cady@wapa.gov](mailto:cady@wapa.gov) or [UGPFirmRate@wapa.gov](mailto:UGPFirmRate@wapa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Firm Electric Service**

On December 2, 2014, the Deputy Secretary of Energy approved, on an interim basis, Rate Order No. WAPA-166 and Rate Schedules P—SED—F12 and P—SED—FP12 for the period beginning January 1, 2015, and ending December 31, 2019 (79 FR 72670-72677 (Dec. 8, 2014)).<sup>1</sup> These Rate Schedules are formula-based, providing for downward adjustments to the drought adder component.<sup>2</sup> On January 1, 2017, the drought adder component of the P-SMBP—ED effective Rate Schedules was adjusted downward, recognizing repayment of drought costs included in the drought adder component of the approved formula rates. The formula-based drought adder component needs to be adjusted down to zero in 2018 and such adjustment can be made using the approved annual drought adder adjustment process. However, since any adjustment to the base component must be done through a public rate process, WAPA now proposes to adjust both the base and drought adder components through a rate adjustment process.

WAPA proposes to adjust the formula-based drought adder component of firm power rate schedules down to zero in 2018, while the base component will be adjusted upward to address present costs. The P-SMBP Fiscal Year 2016 Power Repayment Study (PRS) revenue requirement and current water conditions in the P-SMBP are the determining factors for this proposed rate adjustment.

WAPA's Upper Great Plains Region (UGP) is also proposing the removal of the 5 percent voltage discount currently in the existing P-SMBP—ED firm power rate schedule P—SED—F12 and removing it from the firm power revenue requirement determined in the FY 2016 PRS. The voltage discount was originally created by the Bureau of Reclamation (BOR) in its firm power rate schedules prior to the creation of WAPA. This discount was to compensate certain preference customers for providing "transmission" facilities otherwise provided by the BOR and later WAPA. The effect of providing this discount to certain customers is to raise the firm power rates to all customers to recover the dollars lost by providing the discount. By removing the voltage discount, the overall P-SMBP—ED firm power rate will be lower and all firm power customers will pay firm power rates on an equivalent basis. The original intent of the voltage discount has been met in its nearly 70 years of application. The voltage discount has been difficult to administer equitably among customers. It takes considerable staff time to administer, impedes simplifying power and energy billing, and adds complexity to solely Upper Great Plains (UGP) power billing. Removing the voltage discount is revenue neutral for WAPA.

With the removal of the voltage discount taken into account, the proposed total annual revenue requirement for P-SMBP—ED is \$230.1 million for firm power and firm peaking power service. The existing P-SMBP—ED charges in the current rate schedules for firm power and firm peaking power are being reduced, as indicated in Table 1:

<sup>1</sup> FERC confirmed and approved Rate Order WAPA-166 on a final basis on March 18, 2015, in Docket No. EF15-3-000. See *United States Department of Energy, Western Area Power Administration (Pick-Sloan Missouri Basin Program—Eastern Division)*, 150 FERC ¶ 62,170.

<sup>2</sup> The drought adder component is a formula-based revenue requirement that includes future purchase power above timing purchases, previous purchase power drought deficits, and interest on the purchase power drought deficits. See 72 FR

64067 (November 14, 2007). The drought adder was added as a component to the energy and capacity rates in Rate Order No. WAPA-135, which was approved by the Deputy Secretary on an interim basis on November 14, 2007 (72 FR 64067). FERC confirmed and approved Rate Order WAPA-135 on a final basis on April 14, 2008, in Docket No. EF08-5031. See *United States Department of Energy, Western Area Power Administration (Pick-Sloan Missouri Basin Program—Eastern Division)*, 123 FERC ¶ 62,048. Western reviews the drought adder

each September to determine if drought costs differ from those projected in the Power Repayment Study and whether an adjustment to the drought adder is necessary. See 72 FR at 64071. The drought adder may be adjusted downward using the approved annual drought adder adjustment process, whereas an incremental upward adjustment to the drought adder component greater than the equivalent of 2 mills/kWh requires a public rate process. See 72 FR at 64071.

TABLE 1—SUMMARY OF CURRENT AND PROPOSED REVENUE REQUIREMENT AND RATES

Firm power service	Current under P-SED-F12/P-SED-FP12 with modified drought adder reduction as of January 1, 2017	Proposed under P-SED-F13/P-SED-FP13 as of January 1, 2018	Percent change
P-SMBP—ED Revenue Requirement (millions \$) .....	\$282.7	\$230.1	- 19
P-SMBP—ED Composite Rate (mills/kWh) .....	28.25	24.00	- 15
Firm Capacity (\$/kW-month) .....	\$6.50	\$5.25	- 19
Firm Energy (mills/kWh) .....	16.18	13.27	- 18
Firm Peaking Capacity (\$/kW-month) .....	\$5.85	\$4.75	- 19
Firm Peaking Energy (mills/kWh) <sup>1</sup> .....	16.18	13.27	- 18

<sup>1</sup> Firm Peaking Energy is normally returned. This charge will be assessed in the event Firm Peaking Energy is not returned.

Under the current rate methodology, rates for P-SMBP—ED firm power and firm peaking power service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other expenses within the allowable period. The annual revenue requirement continues to be allocated equally between capacity and energy.

WAPA is proposing to place Rate Schedules P-SED-F13 and P-SED-FP13 into effect for the 5-year period

beginning January 1, 2018, through December 31, 2022. The proposed adjustment updates the base component with present costs and reduces the drought adder component to zero, as the drought-related debts are projected to be fully repaid in 2018. The net effect of these adjustments results in an overall decrease to the P-SMBP—ED rates.

Base component costs for the P-SMBP—ED have increased primarily due to inflationary annual and capital cost increases associated with incorporating three new out-year

projections into the 5-year cost evaluation period of the current rate-setting PRS. Concurrently, WAPA will be reducing the P-SMBP—ED drought adder components of the firm power rates to zero recognizing the full repayment of drought costs in 2018. The anticipated net effect of these planned rate actions is the firm power rate charges for the P-SMBP—ED will be decreasing overall from the current rate charges. A comparison of the current and proposed components is listed in Table 2.

TABLE 2—SUMMARY OF P-SMBP—ED CHARGE COMPONENTS

	Current charges under rate schedules P-SED-F12 and P-SED-FP12 with modified drought adder reduction as of January 1, 2017			Proposed charges under rate schedules P-SED-F13 and P-SED-FP13 as of January 1, 2018			Change (percent)
	Base component	Drought adder component	Total charge	Base component	Drought adder component	Total charge	
Firm Capacity (\$/kWmonth) .....	\$4.90	\$1.60	\$6.50	\$5.25	\$0.00	\$5.25	- 19
Firm Energy (mills/kWh) .....	12.33	3.85	16.18	13.27	0.00	13.27	- 18
Firm Peaking Capacity (\$/kWmonth) .....	\$4.45	\$1.40	\$5.85	\$4.75	\$0.00	\$4.75	- 19
Firm Peaking Energy (mills/kWh) <sup>1</sup> ..	12.33	3.85	16.18	13.27	0.00	13.27	- 18

<sup>1</sup> Firm peaking energy is normally returned. This charge will be assessed in the event firm peaking energy is not returned.

As a part of the current and proposed rate schedules, WAPA provides for a formula-based adjustment of the drought adder component of up to 2 mills/kWh. The 2 mills/kWh cap is intended to place a limit on the amount the drought adder component can be adjusted relative to associated drought costs to recover costs attributable to the drought adder formula rate for any one-year cycle. Continuing to identify the firm power service revenue requirement using base and drought adder components will assist WAPA in the presentation of future impacts of droughts, demonstrate repayment of drought-related costs in the PRS, and allow WAPA to be more responsive to changes caused by drought-related expenses. WAPA will continue to charge and bill its customers firm power

and firm peaking power service rates for energy and capacity, which are the sum of the base and drought adder components.

**Sale of Surplus Products**

In addition to the firm power and firm peaking power rate schedules, WAPA is proposing a new formula-based rate schedule, P-SED-M1, applicable to the sale of surplus energy and capacity products. The schedule includes reserves, regulation, frequency response, and energy. If WAPA UGP surplus products are available, the charge will be determined based on market rates, plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s) for which a separate charge may be incurred. WAPA

is proposing to place Rate Schedule P-SED-M1 into effect for the 5-year period beginning January 1, 2018, through December 31, 2022.

**Legal Authority**

The proposed rates constitute a major rate adjustment, as defined by 10 CFR 903.2(e); therefore, WAPA will hold the public information and public comment forums for this rate adjustment, pursuant to 10 CFR 903.15 and 903.16. WAPA will review all timely public comments and make amendments or adjustments to the proposals as appropriate. Proposed rates will be forwarded to the Deputy Secretary of Energy for approval on an interim basis.

WAPA is establishing firm power service rates, firm peaking power service rates, and sale of surplus

product formula rates for P-SMBP-ED under the Department of Energy (DOE) Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to WAPA's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

#### Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents WAPA initiates or uses to develop the proposed rates will be available for inspection and copying at the Upper Great Plains Regional Office, located at 2900 4th Avenue North, 6th Floor, Billings, Montana. These documents and supporting information will be posted on WAPA's Web site as they become available under the "2018 Firm Rate Adjustment" section located at <https://www.wapa.gov/regions/UGP/rates/Pages/2018-firm-rate-adjustment.aspx>.

#### Ratemaking Procedure Requirements

##### *Environmental Compliance*

In compliance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321-4347; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), WAPA is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

##### *Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no

clearance of this notice by the Office of Management and Budget is required.

Dated: June 27, 2017.

**Mark A. Gabriel,**  
Administrator.

[FR Doc. 2017-13981 Filed 6-30-17; 8:45 am]

**BILLING CODE 6450-01-P**

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2005-0023; FRL-9961-97-OW]

#### Proposed Information Collection Request; Comment Request; Clean Water Act Section 404 State-Assumed Programs; EPA ICR No. 0220.13, OMB Control No. 2040-0168

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Clean Water Act Section 404 State-Assumed Programs" (EPA ICR No. 0220.13, OMB Control No. 2040-0168) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR No. 0220.12, which is currently approved through November 30, 2017. 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.

**DATES:** Comments must be submitted on or before August 2, 2017.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OW-2005-0023, online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [ow-docket@epa.gov](mailto:ow-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Kathy Hurl, Wetlands Division, Office

of Wetlands, Oceans, and Watersheds (4502T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: 202-566-1269; fax number: 202-566-1349; email address: [hurl.kathy@epa.gov](mailto:hurl.kathy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** Section 404(g) of the Clean Water Act authorizes states [and tribes] to assume the section 404 permit program for discharges of dredged or fill material into certain Waters of the U.S. This ICR covers the collection of information EPA needs to perform its program approval and oversight responsibilities and the state/tribe needs to implement its program.

Request to assume CWA section 404 permit program. States/tribes must demonstrate that they meet the statutory and regulatory requirements (40 CFR 233) for an approvable program. Specified information and documents

must be submitted by the state/tribe to EPA to request assumption and must be sufficient to enable EPA to undertake a thorough analysis of the state/tribal program. The information contained in the assumption request submission is provided to the other involved federal agencies (U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) and to the general public for review and comment.

States/tribes with assumed programs must be able to issue permits that assure compliance with all applicable statutory and regulatory requirements, including the 404(b)(1) Guidelines. Sufficient information must be provided in the application so that states/tribes, and federal agencies reviewing the permit are able to evaluate, avoid, minimize and compensate for any anticipated impacts resulting from the proposed project. EPA's assumption regulations establish required and recommended elements that should be included in the state/tribe's permit application, so that sufficient information is available to make a thorough analysis of anticipated impacts. (40 CFR 233.30). These minimum information requirements generally reflect the information that must be submitted when applying for a section 404 permit from the U.S. Army Corps of Engineers. (CWA section 404(h); CWA section 404(j); 40 CFR 230.10, 233.20, 233.21, 233.34, and 233.50; 33 CFR 325)).

EPA has an oversight role for assumed 404 permitting programs to ensure that state/tribal programs are in compliance with applicable requirements and that state/tribal permit decisions adequately consider, avoid, minimize and compensate for anticipated impacts. States/tribes must evaluate their programs annually and submit the results in a report to EPA. EPA's assumption regulations establish minimum requirements for the annual report (40 CFR 233.52).

The information included in the state/tribe's assumption request and the information included in a permit application is made available for public review and comment. The information included in the annual report to EPA is made available to the public. EPA does not make any assurances of confidentiality for this information.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are those states/tribes requesting assumption of the Clean Water Act section 404 permit program; states/tribes with approved assumed programs; and permit applicants in states/tribes with assumed programs.

*Respondent's obligation to respond:* Required to obtain or retain a benefit (40 CFR 233).

*Estimated number of respondents:* 2 states/tribes to request program assumption; 11,900 permit applicants (2,975 applications per state); and 4 states/tribes which have assumed the program (the two current programs and potentially two who may be approved under this ICR) which will submit an annual report.

*Frequency of response:* States/tribes will respond one time to request assumption and once the program is approved they will respond annually for the annual report; permit applicants will respond one time when requesting a permit.

*Total estimated burden:* The public reporting and recordkeeping burden for this collection of information is estimated to be 120,400 hours per year (520 hours to request program assumption times two states/tribes (1,040 hours); 11,900 permit applicants times 10 hours per application (119,000 hours); and 90 hours to prepare an annual report times 4 state/tribal assumed programs (360 hours)). The burden to EPA for related activities is 8,560 hours per year (200 hours to review assumption requests times two states/tribes (400 hours); 100 permit applications times 80 hours per application review (8,000 hours); and 40 hours to review an annual report times 4 state/tribal assumed programs (160 hours)). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* Costs to states/tribes for assumed section 404 permit programs will vary widely by state/tribe and permit, however there are \$0 capital or operation & maintenance costs. The cost to EPA for related activities is \$420,513.28 in labor costs (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is an increase of 29,440 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is an adjustment reflecting an increase in hours spent reviewing each permit. Michigan doubled its estimate of the number of hours spent reviewing each permit application, based upon the increase in number of applicants requesting a review of permit and mitigation options. New Jersey's estimate remained the same at 10 hours per permit application.

Dated: April 21, 2017.

**John Goodin,**

*Acting Director, Office of Wetlands, Oceans, and Watersheds.*

[FR Doc. 2017-13905 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2007-0482; FRL 9959-80-OAR]

### EPA Information Collection Request Number 2265.03; Proposed Information Collection Request; Comment Request; Information Collection Activities Associated With the SmartWay Transport Partnership

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), "Information Collection Activities Associated with the SmartWay Transport Partnership" (EPA ICR No. 2265.03, OMB Control No. 2060-0663) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through July 31, 2017. 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.

**DATES:** Comments must be submitted on or before September 1, 2017.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2007-0482 online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [smartway\\_transport@epa.gov](mailto:smartway_transport@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Martz, U.S. Environmental

Protection Agency, 2000 Traverwood Drive, S-68, Ann Arbor, MI 48105; telephone number: 734-214-4335; Fax: 734-214-4906; email address: [martz.kathleen@epa.gov](mailto:martz.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* The EPA's Office of Air and Radiation (OAR) developed the SmartWay Transport Partnership ("SmartWay") under directives outlined in Subtitle D of the Energy Policy Act of 2005 which calls on EPA to assess the energy and air quality impacts of activities within the freight industry. These activities include long-duration truck idling, the development and promotion of strategies for reducing idling, fuel consumption, and negative air quality effects. SmartWay's objectives also are consistent with the Clean Air Act, the Federal Technology Transfer Act and other laws that

authorize and support research, training and air pollutant control activities.

SmartWay is open to organizations that own, operate, or contract with fleet operations, including truck, rail, barge, air and multi-modal carriers, logistics companies, and shippers. Organizations that do not operate fleets, but that are working to strengthen the freight industry, such as industry trade associations, state and local transportation agencies and environmental groups, also may join as SmartWay affiliates. All organizations that join SmartWay are asked to provide EPA with information as part of their SmartWay registration to annually benchmark their transportation-related operations and improve the environmental performance of their freight activities.

A company joins SmartWay when it completes and submits a SmartWay Excel-based tool ("reporting tool") to EPA. The data outputs from the submitted tool are used by partners and SmartWay in several ways. First, the data provides confirmation that SmartWay partners are meeting established objectives in their Partnership Agreement. The reporting tool outputs enable EPA to assist SmartWay partners as appropriate, and to update them with environmental performance and technology information that empower them to improve their efficiency. This information also improves EPA's knowledge and understanding of the environmental and energy impacts associated with goods movement, and the effectiveness of both proven and emerging strategies to lessen those impacts.

In addition to requesting annual freight transportation-related data, EPA may ask its SmartWay partners for other kinds of information which could include opinions and test data on the effectiveness of new and emerging technology applications, sales volumes associated with SmartWay-recommended vehicle equipment and technologies, the reach and value of partnering with EPA through the SmartWay Partnership, and awareness of the SmartWay brand. In some instances, EPA might query other freight industry representatives (not just SmartWay partners), including trade and professional associations, nonprofit environmental groups, energy and community organizations, and universities, and a small sampling of the general public.

*Form Numbers:* None.

*Respondents/Affected Entities:* Entities potentially affected by this action include private and public

organizations that join the SmartWay Transport Partnership; freight industry representatives who engage in activities related to the SmartWay Partnership; and representative samplings of consumers in the general public. These entities may be affected by EPA efforts to assess the effectiveness and value of the SmartWay program, awareness of the SmartWay brand, and ideas for developing and improving SmartWay.

*Respondent's Obligation to Respond:* Voluntary.

*Estimated Number of Respondents:* 4,605.

*Frequency of response:* The information collections described in the ICR must be completed in order for an organization to register as or continue its status as a SmartWay partner, to become a SmartWay affiliate, to use the SmartWay logo on an EPA-designated tractor or trailer, or to be considered as an affiliate honoree or for a SmartWay Excellence Award.

*Total Estimated Burden:* The annual burden for this collection of information that all respondent partners and affiliates incur is estimated to average 13,224 hours with a projected annual aggregate cost of \$909,828. The annual burden for this collection of information that federal agency respondents incur is estimated to average 4,910 hours with a projected annual aggregate cost of \$195,271.

This ICR estimates that approximately 3,500 respondent partners will incur burden associated with SmartWay in the first year, with a growth of 320 partners per year projected into the future. The estimated average burden time per respondent is 2.65 hours annually. This is an average across all SmartWay partners, regardless of whether they are affiliates, shippers, carriers or logistics companies. The average also includes 150 consumer and industry respondents who spend far less time, providing the SmartWay program with basic information on their awareness of the program. Among respondent partners the burden hours are typically higher for larger companies with complex fleets, than for smaller companies.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Total Estimated Cost:** The total annual cost to all respondent partners is \$909,828. The total annual cost to federal agency respondents is \$195,271.

**Changes in Estimates:** There is an increase of 1,720 hours in the total estimated respondent partner burden compared with the ICR currently approved by OMB. This increase reflects the following adjustments and program changes:

(1) Adjustments associated with increased interest in SmartWay, and thus, an increase in new annual respondents, as well as robust program retention practices, leading to increased number of existing respondent partners reporting annually, increase in the number of applications for the SmartWay Excellence Awards and the affiliate challenge annually;

(2) Increased burden associated with the SmartWay Tractor and Trailer program; and,

(3) Reduced burden due to EPA's change in policy for submitting Awards materials electronically, rather than by mail.

Dated: February 16, 2017.

**Karl Simon,**

*Director, Transportation and Climate Division, Office of Transportation and Air Quality.*

**Editorial note:** This document was received by the office of the Federal Register on June 27, 2017.

[FR Doc. 2017-13859 Filed 6-30-17; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank

indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 2017.

**A. Federal Reserve Bank of Cleveland** (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566. Comments can also be sent electronically to

*Comments.applications@clev.frb.org:*

1. D. Thomas Boyer, Bryan, Ohio, individually and the D. Thomas Boyer Control Group, consisting of D. Thomas Boyer, Bryan, Ohio; Virginia Boyer Egan, Bryan, Ohio; and Charles D. Boyer, Bryan, Ohio; to retain voting shares of Corn City State Bank, Deshler, Ohio.

Board of Governors of the Federal Reserve System, June 28, 2017.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2017-13935 Filed 6-30-17; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL TRADE COMMISSION

[File No. 161 0207]

### Alimentation Couche-Tard Inc. and CST Brands, Inc.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 26, 2017.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: "In the Matter of Alimentation Couche-Tard Inc., File No. 161-0207" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/act-cstconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write "In the Matter of Alimentation Couche-Tard Inc., File No. 161-0207" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your

comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Bush (202-326-2848), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 26, 2017), on the World Wide Web, at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 26, 2017. Write "In the Matter of Alimentation Couche-Tard Inc., File No. 161-0207" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <https://www.ftc.gov/policy/public-comments>.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/act-cstconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov#!/home>, you also may file a comment through that Web site.

If you prefer to file your comment on paper, write "In the Matter of Alimentation Couche-Tard Inc., File No. 161-0207" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary,



Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Web site at <https://www.ftc.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Web site to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as

appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 26, 2017. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

## **Analysis of Agreement Containing Consent Orders To Aid Public Comment**

### **I. Introduction**

The Federal Trade Commission ("Commission") has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Alimentation Couche-Tard Inc. ("ACT") and CST Brands, Inc. ("CST") (collectively, the "Respondents"). The Consent Agreement is designed to remedy the anticompetitive effects that likely would result from ACT's proposed acquisition of CST.

Under the terms of the proposed Consent Agreement, ACT must divest to a Commission-approved buyer certain CST retail fuel outlets and related assets in 70 local markets in 16 metropolitan statistical areas ("MSAs"), and at the buyer's option, an ACT site in one local market. The divestiture must be completed no later than 75 days after the closing of ACT's acquisition of CST or 14 days after the Consent Agreement is issued as final. The Commission and Respondents have agreed to an Order to Maintain Assets that requires Respondents to operate and maintain each divestiture outlet in the normal course of business through the date the Commission-approved buyer acquires the outlet.

The Commission has placed the proposed Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

### **II. The Respondents**

Respondent ACT, a publicly traded company headquartered in Laval, Quebec, Canada, operates convenience stores and retail fuel outlets throughout the United States and the world. ACT's current U.S. network consists of over 6,050 stores located in 41 states. Nearly 4,700 locations are company-operated, making ACT the largest convenience store operator in terms of company-owned stores and the second-largest

chain overall in the country. Approximately 88 percent of ACT's company-operated locations also sell fuel. ACT convenience store locations operate primarily under the Circle K and Kangaroo Express banners, while its retail fuel outlets operate under a variety of company and third-party brands.

Respondent CST operates convenience stores and retail fuel outlets in the United States and Canada. With 1,146 convenience stores and retail fuel outlets in the United States, CST is one of the largest chains in the country. CST's U.S. convenience stores operate primarily under the Corner Store banner, while its retail fuel outlets operate primarily under the Valero brand. CST also is the general partner and operator of CrossAmerica Partners LP, a publicly traded master limited partnership that offers wholesale fuels marketing, and owns and operates convenience stores and retail fuel outlets.

### **III. The Proposed Acquisition**

On August 21, 2016, ACT, through its wholly-owned subsidiary Circle K Stores, Inc., entered into an agreement to acquire all outstanding shares of CST for \$4.4 billion, with CST surviving post-acquisition as a wholly-owned subsidiary of Circle K Stores, Inc. (the "Transaction"). The Transaction would cement ACT's position as one of the largest operators of retail fuel outlets in the United States.

The Commission's Complaint alleges that the Transaction, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition for the retail sale of gasoline and diesel in 71 local markets across 16 MSAs.

### **IV. The Retail Sale of Gasoline and Diesel**

The Commission's Complaint alleges that relevant product markets in which to analyze the Transaction are the retail sale of gasoline and the retail sale of diesel. Consumers require gasoline for their gasoline-powered vehicles and can purchase gasoline only at retail fuel outlets. Likewise, consumers require diesel for their diesel-powered vehicles and can purchase diesel only at retail fuel outlets. The retail sale of gasoline and the retail sale of diesel constitute separate relevant markets because the two are not interchangeable—vehicles that run on gasoline cannot run on diesel and vehicles that run on diesel cannot run on gasoline.



The Commission's Complaint alleges the relevant geographic markets in which to assess the competitive effects of the Transaction are 71 local markets within the following MSAs: Phoenix, Arizona; El Paso, Texas; Tucson, Arizona; Colorado Springs, Colorado; Denver, Colorado; Jacksonville, Florida; Albuquerque, New Mexico; Corpus Christi, Texas; Austin, Texas; Shreveport, Louisiana; Albany, Georgia; Cleveland, Ohio; Las Cruces, New Mexico; Savannah, Georgia; Sierra Vista, Arizona; and Warner Robins, Georgia.

The geographic markets for the retail sale of gasoline are highly localized, generally ranging from a few blocks to a few miles. None of the relevant geographic markets exceeds three driving miles from an overlapping retail fuel outlet. Fueling up on gasoline is rarely a destination trip for a consumer and therefore consumers are likely to frequent retail fuel outlets close to their planned routes. Each particular geographic market is unique, with factors such as commuting patterns, traffic flows, and outlet characteristics playing important roles in determining the scope of the geographic market. The geographic markets for the retail sale of diesel are similar to the corresponding geographic markets for retail gasoline as diesel consumers exhibit the same preferences and behaviors as gasoline consumers.

The Transaction would substantially increase the market concentration in each of the 71 local markets, resulting in highly concentrated markets. In ten local markets, the Transaction would result in a monopoly. In 20 local markets, the Transaction would reduce the number of independent market participants from three to two. In 41 local markets, the Transaction would reduce the number of independent market participants from four to three.

The Transaction would substantially lessen competition for the retail sale of gasoline and the retail sale of diesel in these local markets. Retail fuel outlets compete on price, store format, product offerings, and location, and pay close attention to competitors in close proximity, on similar traffic flows, and with similar store characteristics. The combined entity would be able to raise prices unilaterally in markets where CST is ACT's only or closest competitor. Absent the Transaction, CST and ACT would continue to compete head to head in these local markets.

Moreover, the Transaction would increase the likelihood of coordination in local markets where only three or two independent market participants would remain. Two aspects of the retail fuel industry make it vulnerable to

coordination. First, retail fuel outlets post their fuel prices on price signs that are visible from the street, allowing competitors to observe each other's fuel prices without difficulty. Second, retail fuel outlets regularly track their competitors' fuel prices and change their own prices in response. These repeated interactions give retail fuel outlets familiarity with how their competitors price and how their competitors respond to their own prices.

Entry into each relevant market would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects arising from the Acquisition. Significant entry barriers include the availability of attractive real estate, the time and cost associated with constructing a new retail fuel outlet, and the time associated with obtaining necessary permits and approvals.

#### V. The Proposed Consent Agreement

The proposed Consent Agreement remedies the Transaction's anticompetitive effects by requiring ACT to divest certain CST retail fuel outlets and related assets in 70 local markets, and an ACT site in one local market at the buyer's option, to Empire Petroleum Partners ("Empire"). Empire is a retail operator and wholesale fuel distributor doing business in 26 states; its executive team has decades of experience with some of the industry's largest players. The Commission is satisfied that Empire is a qualified acquirer of the divested assets.

The proposed Consent Agreement requires ACT to divest to Empire CST's retail fuel outlets in 70 local markets. In the remaining local market, located in Albany, Georgia, the ACT outlet was damaged by a tornado in early 2017. To remedy potential competitive concerns in this local market, the Consent Agreement requires ACT to give Empire the option of acquiring the overlapping ACT site. If Empire declines the option, the Consent Agreement prohibits ACT, for ten years, from restricting the use of the property as a retail fuel outlet in any future sale. The proposed Consent Agreement requires ACT to divest the assets to Empire no later than 75 days after the Transaction closes or 14 days after the Commission issues the Consent Agreement as final.

The proposed Consent Agreement also requires that ACT provide transitional assistance to Empire for one year, with an option for Empire to extend the period for an additional year. Empire may extend the period for a third year, but only with Commission approval. ACT and Empire have entered into a Transition Services Agreement, whereby ACT has agreed to allow

Empire to continue using the CST brand names and the store-specific licenses and permits during the transitional assistance period. In addition, ACT has agreed to provide temporary wholesale fuel supply to Empire on the same terms CST was receiving, giving Empire time to negotiate its own wholesale supply contracts.

In addition to requiring outlet divestitures, the proposed Consent Agreement also requires ACT to provide the Commission notice, for a period of ten years, of certain acquisitions in the 71 local markets at issue. Specifically, the Consent Agreement requires ACT to give the Commission notice of future acquisitions of Commission-identified retail fuel outlets located in the same local markets as the divested assets.

The proposed Consent Agreement contains additional provisions designed to ensure the adequacy of the proposed relief. For example, Respondents have agreed to an Order to Maintain Assets that will be issued at the time the proposed Consent Agreement is accepted for public comment. The Order to Maintain Assets requires Respondents to operate and maintain each divestiture outlet in the normal course of business, through the date the store is ultimately divested to a buyer. During this period, and until such time as Empire no longer requires transitional assistance, the Order the Maintain Assets authorizes the Commission to appoint an independent third party as a Monitor to oversee the Respondents' compliance with the requirements of the proposed Consent Agreement.

The Commission does not intend this analysis to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2017-13912 Filed 6-30-17; 8:45 am]

BILLING CODE 6750-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Disease, Disability, and Injury Prevention and Control Special

#### Emphasis Panel (SEP): Secondary Review

This is to announce the cancelation of a meeting, Research Grants for Preventing Violence and Violence

Related Injury (R01), CE17-003 and PHS 2016-02 Omnibus Solicitation of the NIH, CDC FDA, and ACF for Small Business Innovation Research Grant Applications (Parent SBIR [R43/R44]).

**SUMMARY:** This meeting was announced in the **Federal Register** on June 12, 2017, Volume 82, Number 111, pages 26933 and 26934. This meeting is canceled in its entirety.

**CONTACT PERSON FOR MORE INFORMATION:** Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE., Mailstop F-63, Atlanta, Georgia 30341, Telephone (770) 488-1430.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2017-13925 Filed 6-30-17; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10307]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed

information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by September 1, 2017.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number \_\_\_\_, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:** William Parham at (410) 786-4669.

#### SUPPLEMENTARY INFORMATION:

##### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

##### ADDRESSES).

#### CMS-10307 Medical Necessity Disclosure Under MHPAEA and Claims Denial Disclosure Under MHPAEA

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. The term "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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

#### Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medical Necessity Disclosure Under MHPAEA and Claims Denial Disclosure Under MHPAEA; *Use:* The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. 110-343) generally requires that group health plans and group health insurance issuers offering mental health or substance use disorder (MH/SUD) benefits in addition to medical and surgical (med/surg) benefits ensure that they do not apply any more restrictive financial requirements (e.g., co-pays, deductibles) and/or treatment limitations (e.g., visit limits) to MH/SUD benefits than those requirements and/or limitations applied to substantially all med/surg benefits.

The Patient Protection and Affordable Care Act, Public Law 111-148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, was enacted on March 30, 2010. These statutes are collectively known as the "Affordable Care Act." The Affordable Care Act extended MHPAEA to apply to the individual health insurance market. Additionally, the Department of Health and Human Services (HHS) final regulation regarding essential health benefits (EHB) requires health insurance issuers offering non-grandfathered health insurance coverage in the individual and small group markets, through an Exchange or outside of an Exchange, to comply with the requirements of the MHPAEA regulations in order to satisfy the requirement to cover EHB (45 CFR 147.150 and 156.115).

### *Medical Necessity Disclosure Under MHPAEA*

MHPAEA section 512(b) specifically amends the Public Health Service (PHS) Act to require plan administrators or health insurance issuers to provide, upon request, the criteria for medical necessity determinations made with respect to MH/SUD benefits to current or potential participants, beneficiaries, or contracting providers. The Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (75 FR 5410, February 2, 2010) and the Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 set forth rules for providing criteria for medical necessity determinations. CMS oversees non-Federal governmental plans and health insurance issuers.

### *Claims Denial Disclosure Under MHPAEA*

MHPAEA section 512(b) specifically amends the PHS Act to require plan administrators or health insurance issuers to supply, upon request, the reason for any denial or reimbursement of payment for MH/SUD services to the participant or beneficiary involved in the case. The Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (75 FR 5410, February 2, 2010) and the Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 implement 45 CFR 146.136(d)(2), which sets forth rules for providing reasons for claims denial. CMS oversees non-Federal governmental plans and health insurance issuers, and the regulation provides a safe harbor such that non-Federal governmental plans (and issuers offering coverage in connection with such plans) are deemed to comply with requirements of paragraph (d)(2) of 45 CFR 146.136 if they provide the reason for claims denial in a form and manner consistent with ERISA requirements found in 29 CFR 2560.503-1. Section 146.136(d)(3) of the final rule clarifies that PHS Act section 2719 governing internal claims and appeals and external review as implemented by 45 CFR 147.136, covers MHPAEA claims denials and requires that, when a non-quantitative treatment limitation (NQTL) is the basis for a claims denial, that a non-grandfathered plan or issuer must provide the processes, strategies, evidentiary standard, and other factors used in developing and applying the NQTL with respect to med/surg benefits and MH/SUD benefits.

### *Disclosure Request Form*

Group health plan participants, beneficiaries, covered individuals in the individual market, or persons acting on their behalf, may use this optional model form to request information from plans regarding NQTLs that may affect patients' MH/SUD benefits or that may have resulted in their coverage being denied. *Form Number:* CMS-10307; *Frequency:* On Occasion; *Affected Public:* State, Local, or Tribal Governments, Private Sector, Individuals; *Number of Respondents:* 267,538; *Number of Responses:* 1,081,929; *Total Annual Hours:* 43,327. (For policy questions regarding this collection contact Usree Bandyopadhyay at 410-786-6650).

Dated: June 28, 2017.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2017-13973 Filed 6-30-17; 8:45 am]

**BILLING CODE 4120-01-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

[Docket No. FDA-2017-D-2232]

#### **Product Identifier Requirements Under the Drug Supply Chain Security Act—Compliance Policy; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “Product Identifier Requirements Under the Drug Supply Chain Security Act—Compliance Policy.” This draft guidance describes FDA’s intention with regard to enforcement of requirements related to product identifiers under the Drug Supply Chain Security Act (DSCSA). Specifically, this guidance addresses manufacturers’ product identifier and verification requirements, which begin November 27, 2017. This guidance also addresses certain requirements for repackagers, wholesale distributors, and dispensers to only engage in transactions involving products with product identifiers and to verify the product identifier when investigating suspect product, in addition to repackager and wholesale distributor requirements related to saleable returned products.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 1, 2017.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2017-D-2232 for “Product Identifier Requirements Under the Drug Supply Chain Security Act—Compliance Policy; Draft Guidance for Industry; Availability.” Received comments, those filed in a timely manner (see **DATES**), 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.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY**

**INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Connie Jung, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, [drugtrackandtrace@fda.hhs.gov](mailto:drugtrackandtrace@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The DSCSA (Title II of Pub. L. 113–54) was signed into law on November 27, 2013. Section 202 of the DSCSA added section 582 to the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360eee–1). This section established product tracing, product identifier, and verification requirements for manufacturers, repackagers, wholesale distributors, and dispensers to facilitate the tracing of products through the pharmaceutical distribution supply chain. Failure to comply with the requirements of section 582 is also a prohibited act under section 301(t) of the FD&C Act (21 U.S.C. 331(t)).

Beginning November 27, 2017, manufacturers are required, under section 582(b)(2)(A) of the FD&C Act, to “affix or imprint a product identifier to each package and homogenous case of a product intended to be introduced in a transaction into commerce.” Also beginning on November 27, 2017, section 582(b)(4)(A)(i)(II) of the FD&C Act requires manufacturers to verify the product at the package level, including the standardized numerical identifier, which is part of the product identifier, when they determine that the product in their possession or control is suspect or they receive a verification request from FDA. Section 582(b)(4)(C) of the FD&C Act requires a manufacturer, upon receiving a request from an authorized trading partner that believes a product in its possession or control was manufactured by the manufacturer, to verify whether the product identifier on a product corresponds with the product identifier affixed or imprinted by the manufacturer. Section 582(b)(4)(E) of the FD&C Act requires manufacturers to verify the product identifier of a package or a sealed homogenous case of a saleable returned product before the manufacturer further distributes such product.

In addition, under section 582(e)(2)(A)(iii) of the FD&C Act, beginning on November 27, 2018, repackagers may engage in transactions involving a product only if such product is encoded with a product identifier, unless the product is grandfathered

under section 582(a)(5) of the FD&C Act. This same requirement applies to wholesale distributors beginning on November 27, 2019, under section 582(c)(2) of the FD&C Act, and to dispensers beginning on November 27, 2020, under section 582(d)(2) of the FD&C Act. Additionally, under section 582(c)(4)(A)(i)(II), (d)(4)(A)(ii)(II), and (e)(4)(A)(i)(II) of the FD&C Act, wholesale distributors, dispensers, and repackagers are required to verify the product at the package level, including the standardized numerical identifier, which is part of the product identifier, to investigate a suspect product. For a saleable returned product, the wholesale distributor or repackager must verify the product identifier, including the standardized numerical identifier, of each package or sealed homogenous case of such product before it further distributes such product, under section 582(c)(4)(D) and (e)(4)(E) of the FD&C Act, respectively.

As described in the draft guidance, FDA has received comments and feedback from manufacturers and other trading partners expressing concern with industry-wide readiness for implementation of the product identifier requirements for manufacturers and describing challenges they face. Given the concerns expressed, FDA recognizes that some manufacturers may need additional time beyond November 27, 2017, to ensure that products are properly labeled with a product identifier. To minimize possible disruptions in the distribution of prescription drugs in the United States, FDA has adopted the compliance policy described in the guidance.

Under this compliance policy, FDA does not intend to take action against manufacturers who do not affix or imprint a product identifier to their packages and homogenous cases of product that are intended to be introduced in a transaction into commerce between November 27, 2017, and November 26, 2018. For such product that does not contain a product identifier and was first introduced in a transaction into commerce by the manufacturer between November 27, 2017, and November 26, 2018, FDA also does not intend to take action against manufacturers who do not use the product identifier to verify a product at the package level when investigating suspect product, upon receiving a verification request from FDA, after receiving a request from an authorized trading partner, or for a saleable returned product.

This guidance also explains that, for a product that does not have a product identifier and that was first introduced

in a transaction into commerce by the manufacturer between November 27, 2017, and November 26, 2018, FDA does not intend to take action against: (1) Repackagers who accept ownership of such product in a transaction; (2) wholesale distributors who engage in transactions involving such product; and (3) dispensers who engage in transactions involving such product, or repackagers, wholesale distributors, and dispensers who do not verify the product at the package level, using the product identifier, when investigating suspect product or for a saleable returned product as applicable. In addition, the guidance explains that FDA does not intend to take action against a manufacturer, repackager, or wholesale distributor who engages in certain prohibited acts involving products that are misbranded based on lack of product identifier alone, where the package and/or homogeneous case of product that lacks a product identifier was introduced in a transaction into commerce by a manufacturer between November 27, 2017, and November 26, 2018. The guidance document explains the scope of the compliance policy in further detail. FDA invites comment on the compliance policy, including comments on how manufacturers can indicate the date they initially introduced the product in a transaction into commerce and how downstream trading partners can determine that product was initially introduced by manufacturers in a transaction into commerce during that time period.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Product Identifier Requirements Under the Drug Supply Chain Security Act—Compliance Policy." 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 is not a significant regulatory action subject to Executive Order 12866.

## II. Electronic Access

Persons with access to the Internet may obtain the draft guidance at <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, or <https://www.regulations.gov>.

Dated: June 28, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-13979 Filed 6-30-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2009-N-0360]

#### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food and Drug Administration Safety Communication Readership Survey

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. **DATES:** Fax written comments on the collection of information by August 2, 2017.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). All comments should be identified with the OMB control number 0910-0341. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

#### FDA Safety Communication Readership Survey

OMB Control Number 0910-0341—Extension

Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

375(b)) gives FDA authority to disseminate information concerning suspected or imminent danger to public health by any regulated product. Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) also authorizes FDA to conduct research relating to health information.

FDA's Center for Devices and Radiological Health (CDRH) carries out FDA's regulatory responsibilities regarding medical devices and radiological products. CDRH must be able to effectively communicate risk to health care practitioners, patients, caregivers, and consumers when there is a real or suspected threat to the public's health. CDRH uses safety communications to transmit information concerning these risks to user communities. Safety communications are released and available to organizations such as hospitals, nursing homes, hospices, home health care agencies, manufacturers, retail pharmacies, and other health care providers, as well as patients, caregivers, consumers, and patient advocacy groups. Through a process for identifying and addressing postmarket safety issues related to regulated products, CDRH determines when to release safety communications.

FDA seeks to evaluate the clarity, timeliness, and impact of safety communications by surveying a sample of recipients and obtain their voluntary responses to determine the impact of safety communications on the knowledge of the recipients. Understanding how the target audiences view these publications will aid in determining what, if any, changes should be considered in their content, format, and method of dissemination. The collection of this data is an important step in determining how well CDRH is communicating risk. The results from this survey will emphasize the quality of the safety communications and customer satisfaction. This will enable us to better serve the public by improving the effectiveness of safety communications.

In the **Federal Register** of March 15, 2017 (82 FR 13814), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Public Health Notification Readership Survey .....	300	3	900	* 0.17	153

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

\* 10 minutes.

Based on the history of the Safety Communication program, it is estimated that an average of three collections will be conducted per year. The total burden of voluntary response time is estimated at 10 minutes per survey. This was derived by CDRH staff completing the survey.

Dated: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017–13884 Filed 6–30–17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2017–N–0001]

#### Advisory Committee; Medical Imaging Drugs Advisory Committee, Renewal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; renewal of advisory committee.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the renewal of the Medical Imaging Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Medical Imaging Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until May 18, 2019.

**DATES:** Authority for the Medical Imaging Drugs Advisory Committee will expire on May 18, 2017, unless the Commissioner formally determines that renewal is in the public interest.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, email: [MIDAC@fda.hhs.gov](mailto:MIDAC@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and

by the General Services Administration, FDA is announcing the renewal of the Medical Imaging Drugs Advisory Committee. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Medical Imaging Drugs Advisory Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology and makes appropriate recommendations to the Commissioner of Food and Drugs.

The Committee shall consist of a core of 12 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of nuclear medicine, radiology, epidemiology or statistics, and related specialties. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/MedicalImagingDrugsAdvisoryCommittee/ucm273284.htm> or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee

name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at <https://www.fda.gov/AdvisoryCommittees/default.htm>.

Dated: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017–13885 Filed 6–30–17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2013–N–1161]

#### Agency Information Collection Activities; Proposed Collection; Comment Request; Food Safety Survey

**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 a voluntary consumer survey entitled “Food Safety Survey.”

**DATES:** Submit either electronic or written comments on the collection of information by September 1, 2017.

**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 September 1, 2017. The <https://www.regulations.gov>

electronic filing system will accept comments until midnight Eastern Time at the end of September 1, 2017. 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-N-1161 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Food Safety Survey." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff

between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Ila S. Mizrahi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-7726, [PRAStaff@fda.hhs.gov](mailto: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.

#### Food Safety Survey; OMB Control Number 0910-0345—Extension

Under section 1003(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), we are authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. The Food Safety Survey measures consumers' knowledge, attitudes, and beliefs about food safety. Previous versions of the survey were collected in 1988, 1993, 1998, 2001, 2006, 2010, and 2016. Food Safety Survey data are used to measure trends in consumer food safety habits including hand and cutting board washing, cooking practices, and use of food thermometers. Data are also used to evaluate educational messages and to inform policymakers about consumer attitudes about technologies such as food irradiation and biotechnology.

The proposed Food Safety Survey will contain many of the same questions and topics as previous Food Safety Surveys to facilitate measuring trends in food safety knowledge, attitudes, and behaviors over time. The proposed survey will also be updated to explore emerging consumer food safety topics and expand understanding of previously asked topics.

The methods for the proposed Food Safety Survey will be largely the same as those used with the previous Food



Safety Surveys with the exception of the inclusion of addressed based sampling (ABS) methods to explore the method as a possible alternative for new survey questions. ABS is sampling from address frames that are usually based, in part, on residential addresses in the U.S. Postal Service Computerized Delivery Sequence File. ABS is a cost effective method of sampling that provides much

coverage of U.S. households for in-person, mail, telephone, and multimode surveys (including Web-based surveys.) The Food Safety Survey will continue to include cell phones in addition to landlines for the telephone interviews. A nationally representative sample of 4,000 adults will be selected at random to complete the survey. The survey will also include an oversample of Hispanics

and Blacks to ensure a minimum of 400 each. Additionally, methods will be employed to test for the presence of response bias. Participation in the survey will be voluntary. Cognitive interviews and a pre-test will be conducted prior to fielding the survey.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN <sup>1</sup>

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cognitive interview screener .....	75	1	75	0.083 (5 minutes) .....	6
Cognitive interview .....	9	1	9	1 .....	9
Pretest screener .....	45	1	45	0.0167 (1 minute) .....	1
Pretest .....	18	1	18	0.33 (20 minutes) .....	6
Survey screener .....	10,000	1	10,000	0.0167 (1 minute) .....	167
Survey .....	4,000	1	4,000	0.33 (20 minutes) .....	1,320
Non-response survey screener .....	125	1	125	0.0167 (1 minute) .....	2
Non-response survey .....	50	1	50	0.167 (10 minutes) .....	8
Total <sup>2</sup> .....					1,519

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA’s burden estimate is based on the Agency’s prior experience with the Food Safety Survey. FDA estimates that the burden hours for this information collection will remain the same since the last OMB approval.

Dated: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017–13882 Filed 6–30–17; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA–2017–N–0001]

**Advisory Committees; Filing of Closed Meeting Reports**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the Agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2016.

**ADDRESSES:** Copies are available at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500. You also may

access the docket at <https://www.regulations.gov> for the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2016. Insert the docket number found in brackets in the heading of this document at <https://www.regulations.gov> into the “Search” box, clear filter under Document Type (left side of screen), and check “Supporting and Related Material,” then Sort By Best Match (from the drop-down menu; top right side of screen), “ID Number (Z–A)” or Sort By Best Match (from the drop-down menu) “Title (A–Z),” also found in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Michael Ortwerth, Director and Committee Management Officer, Advisory Committee and Oversight Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–8220.

**SUPPLEMENTARY INFORMATION:** Under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. app.) and 21 CFR 14.60(d), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 2015, through September 30, 2016:

**Center for Biologics Evaluation and Research**

Blood Products Advisory Committee  
Vaccines and Related Biological Products Advisory Committee

**National Center for Toxicological Research**

Science Board to the National Center for Toxicological Research

**Center for Drugs Evaluation and Research**

Joint Meetings of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee

Annual Reports are available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, at:

(1) The Library of Congress, Madison Building, Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., Rm. 133, Washington, DC; and

(2) Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017–13886 Filed 6–30–17; 8:45 am]

**BILLING CODE 4164-01-P**



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2017-N-1062]

**Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management 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 Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees is to provide advice and recommendations to the Agency on FDA's regulatory issues. At least one portion of the meeting will be closed to the public. FDA is establishing a docket for public comment on this document.

**DATES:** The meeting will be held on July 26, 2017, from 8 a.m. to 5 p.m.

**ADDRESSES:** FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993-0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2017-N-1062. The docket will close on July 25, 2017. Submit either electronic or written comments on this public meeting July 25, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 25, 2017. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of July 25, 2017. 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 July 12, 2017, will be provided to the

Committee. Comments received after that date will be taken into consideration by the Agency. 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-2017-N-1062 for "Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management 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." 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:** Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, FAX: 301-847-8533, email: [AADPAC@fda.hhs.gov](mailto:AADPAC@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 Agency's Web site 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:* The committees will discuss new drug application (NDA) 209653, for oxycodone hydrochloride extended-release oral tablets, submitted by Intellipharmaceuticals Corp., with the proposed indication of management of moderate-to-severe pain when a continuous around-the-clock analgesic is needed for an extended period of time. The product has been formulated with properties intended to deter abuse, and the applicant has submitted data to support these abuse-deterrent properties for this product. The committees will be asked to discuss the overall risk-benefit profile of the product, and whether the applicant has demonstrated abuse-deterrent properties for their product that would support labeling.

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 Web site 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 Web site 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:* On July 26, 2017, from 9:15 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. All electronic and written submissions submitted to the docket (see **ADDRESSES**) on or before July 12, 2017, will be provided to the committees. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 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 July 3, 2017. 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 July 5, 2017.

*Closed Committee Deliberations:* On July 26, 2017, from 8 a.m. to 9:15 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)). During this session, the committees will discuss the drug development program of an investigational abuse-deterrent opioid product.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

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 Stephanie L. Begansky at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site 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: June 27, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-13887 Filed 6-30-17; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket Nos. FDA-2016-N-2976; FDA-2016-N-3535; FDA-2013-N-1089; FDA-2013-N-1619; FDA-2013-N-0719; FDA-2016-N-3586; FDA-2013-N-0796; FDA-2016-N-0736; FDA-2016-N-3995; FDA-2013-D-0575; FDA-2016-N-0735]

**Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Ila S. Mizrahi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, (301) 796-7726, [PRAStaff@fda.hhs.gov](mailto:PRAStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the Internet at <https://www.reginfo.gov/public/do/PRAMain>. 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.

**TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB**

Title of collection	OMB control No.	Date approval expires
Request for Information From U.S. Processors That Export to the European Community .....	0910-0320	5/31/2020
Guidance for Industry: Special Protocol Assessment .....	0910-0470	5/31/2020
Use of Symbols on Labels and in Labeling of In Vitro Diagnostic Devices Intended for Professional Use .....	0910-0553	5/31/2020
Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements .....	0910-0606	5/31/2020
Guidance for Industry: Planning for the Effects of High Absenteeism to Ensure Availability of Medically Necessary Drug Products .....	0910-0675	5/31/2020

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB—Continued

Title of collection	OMB control No.	Date approval expires
Focus Groups About Drug Products as Used by the Food and Drug Administration .....	0910-0677	5/31/2020
Testing Communication on Medical Devices and Radiation-Emitting Products .....	0910-0678	5/31/2020
Tracking Network for PETNet, LivestockNet, and SampleNet .....	0910-0680	5/31/2020
Medical Devices: Pediatric Uses of Devices; Requirements for Submission of Information on Pediatric Subpopulations That Suffer From a Disease or Condition That a Device is Intended to Treat, Diagnose, or Cure .....	0910-0748	5/31/2020
Guidance for Industry: Expedited Programs for Serious Conditions—Drugs and Biologics .....	0910-0765	5/31/2020
Superimposed Text in Direct-to-Consumer Promotion of Prescription Drugs .....	0910-0831	5/31/2020

Dated: June 27, 2017.

**Anna K. Abram,**  
Deputy Commissioner for Policy, Planning,  
Legislation, and Analysis.

[FR Doc. 2017-13890 Filed 6-30-17; 8:45 am]

BILLING CODE 4164-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Meeting of the Secretary’s Advisory Committee on Human Research Protections**

**AGENCY:** Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 10(a) of the Federal Advisory Committee Act, notice is hereby given that the Secretary’s Advisory Committee on Human Research Protections (SACHRP) will hold a meeting that will be open to the public. Information about SACHRP and the full meeting agenda will be posted on the SACHRP Web site at: <http://www.dhhs.gov/ohrp/sachrp-committee/meetings/index.html>.

**DATES:** The meeting will be held on Tuesday, July 25, 2017, from 8:30 a.m. until 5:00 p.m., and Wednesday, July 26, 2017, from 8:30 a.m. until 2:30 p.m.

**ADDRESSES:** Fishers Lane Conference Center, Terrace Level, 5635 Fishers Lane, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Julia Gorey, J.D., Executive Director, SACHRP, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; telephone: 240-453-8141; fax: 240-453-6909; email address: [SACHRP@hhs.gov](mailto:SACHRP@hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services, through the Assistant Secretary for Health, on

issues and topics pertaining to or associated with the protection of human research subjects.

The Subpart A Subcommittee (SAS) was established by SACHRP in October 2006 and is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment.

The Subcommittee on Harmonization (SOH) was established by SACHRP at its July 2009 meeting and charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination.

The SACHRP meeting will open to the public at 8:30 a.m., on Tuesday, July 25, 2017, followed by opening remarks from Dr. Jerry Menikoff, Director, Office for Human Research Protections and Dr. Stephen Rosenfeld, SACHRP Chair. (<https://www.gpo.gov/fdsys/pkg/FR-2017-01-19/html/2017-01058.htm>).

The SOH will present their recommendations regarding the new Common Rule’s compliance dates and transition provisions, as well as for the interpretation and implementation of the broad consent provision, followed by the SAS discussing their report on the interpretation of the new exemption involving benign behavioral interventions. The Tuesday, July 25, meeting will adjourn at approximately 5:00 p.m.

The Wednesday, July 26, meeting will begin at 8:30 a.m. with discussion of recommendations from the SAS regarding the new Common Rule’s expedited review requirements.

The meeting will adjourn at approximately 2:30 p.m., July 26, 2017. Time for public comment sessions will be allotted both days. On-site registration is required for participation in the live public comment session. Note that public comment must be relevant to issues currently being addressed by the SACHRP. Individuals submitting written statements as public

comment should email or fax their comments to SACHRP at [SACHRP@hhs.gov](mailto:SACHRP@hhs.gov) at least five business days prior to the meeting.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify one of the designated SACHRP points of contact at the address/phone number listed above at least one week prior to the meeting.

Dated: June 27, 2017.

**Julia G. Gorey,**  
Executive Director, Secretary’s Advisory Committee on Human Research Protections.

[FR Doc. 2017-13932 Filed 6-30-17; 8:45 am]

BILLING CODE 4150-36-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Public Stakeholder Listening Session on Strategies for Improving Parity for Mental Health and Substance Use Disorder Coverage**

**AGENCY:** Assistant Secretary for Planning and Evaluation, HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a public stakeholder listening session on Strategies for Improving Parity for Mental Health and Substance Use Disorder Coverage. The public meeting, mandated in the 21st Century Cures Act, seeks public comment on improved Federal and State coordination related to section 2726 of the Public Health Service Act, section 712 of the Employee Retirement Income Security Act of 1974, section 9812 of the Internal Revenue Code of 1986, and any comparable provisions of State law. The public meeting will seek participation from the required stakeholders in statute, State health commissioners, State agencies, State attorneys general, the National Association of Insurance Commissioners, health insurance issuers, providers of mental health and

substance use disorder treatment, employers, and patients or their advocates. Written comments may be submitted to [parity@hhs.gov](mailto:parity@hhs.gov) for two weeks prior to the meeting through August 10, 2017.

**DATES:** The meeting will be held on July 27, 2017 from 9:30 a.m. to 11:30 a.m. EDT.

**ADDRESSES:** The meeting will be held in the first floor auditorium in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

*Comments:* The time for oral comments will be limited to five (5) minutes per individual. In lieu of oral comments, formal written comments may be submitted for the record to Laurel Fuller, ASPE, 200 Independence Avenue SW., Room 424E, Washington, DC 20201; all comments should be submitted to [parity@hhs.gov](mailto:parity@hhs.gov). Those submitting comments should identify themselves and any relevant organizational affiliations.

**FOR FURTHER INFORMATION CONTACT:** Laurel Fuller (202) 690-5949, [Laurel.Fuller@hhs.gov](mailto:Laurel.Fuller@hhs.gov).

**SUPPLEMENTARY INFORMATION:**

*Procedure and Agenda:* This meeting is open to the public. Please allow 45 minutes to go through security and walk to the meeting room. The meeting will also be webcast at [www.hhs.gov/live](http://www.hhs.gov/live).

*Note:* Seating will be limited to 75 attendees; this listening session will also be webcast online at [www.hhs.gov/live](http://www.hhs.gov/live). Those wishing to attend the meeting must send an email to [parity@hhs.gov](mailto:parity@hhs.gov) and put "July 27 Public Meeting" in the Subject line by Friday, July 21, 2017 so that their names may be put on a list of expected attendees and forwarded to the security officers the Humphrey Building. In the email please also indicate which group you are representing (State health commissioners, State agencies, State attorneys general, the National Association of Insurance Commissioners, health insurance issuers, providers of mental health and substance use disorder treatment, employers, and patients or their advocates; or other). Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and the entrance to federal buildings may change without notice. If you wish to make a public comment, you must note that within your email.

**Authority:** 114-255 Pub. L. 114-255.

Dated: June 26, 2017.

**John R. Graham,**

*Acting Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2017-13959 Filed 6-30-17; 8:45 am]

**BILLING CODE 4150-15-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Review of K24 Application.

*Date:* July 25, 2017.

*Time:* 11:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Barbara A. Woynarowska, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 402-7172, [woynarowskab@nidk.nih.gov](mailto:woynarowskab@nidk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR-16-127: NIDDK Program Projects (P01).

*Date:* August 7, 2017.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, 301-594-2242, [jerkinsa@nidk.nih.gov](mailto:jerkinsa@nidk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases

Special Emphasis Panel; Limited Competition: Data Coordinating Center for Type 1 Diabetes TrialNet (UC4).

*Date:* August 15, 2017.

*Time:* 1:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-8895, [rushingp@extra.nidk.nih.gov](mailto:rushingp@extra.nidk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 27, 2017.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-13896 Filed 6-30-17; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Cancer Institute; Amended Notice of Meeting**

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, July 12, 2017, 11:00 a.m. to July 12, 2017, 3:00 p.m., National Cancer Institute Shady Grove, Shady Grove, 9609 Medical Center Drive, 7W114, Rockville, MD 20850 which was published in the **Federal Register** on May 31, 2017, 82 FR 24983.

The meeting notice is amended to change the meeting title to "Biospecimen and Innovative Technology". The meeting is closed to the public.

Dated: June 27, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-13895 Filed 6-30-17; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

**Project: Access to Recovery (ATR) Program (OMB No. 0930-0266)—Reinstatement**

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Substance Abuse Treatment (CSAT) is charged with the Access to Recovery (ATR) program

which will allow grantees (States, Territories, the District of Columbia and Tribal Organizations) a means to implement voucher programs for substance abuse clinical treatment and recovery support services. The ATR data collection (OMB No. 0930-0266) will be a reinstatement from the previous approval that expired on May 31, 2017. There are no changes to the two client-level tools from the previous approval.

The Center for Substance Abuse Treatment (CSAT) is charged with the Access to Recovery (ATR) program which will allow grantees (States, Territories, the District of Columbia and Tribal Organizations) a means to implement voucher programs for substance abuse clinical treatment and recovery support services. This data collection is in use without OMB approval. There are no changes to the two client-level tools (OMB No. 0930-0266) from the previous approval. This data collection expired on May 31, 2017.

The goals of the ATR program are to:  
(1) Provide client choice among

substance abuse clinical treatment and recovery support service providers, (2) expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and (3) increase substance abuse treatment capacity. Monitoring outcomes, tracking costs, and preventing waste, fraud and abuse to ensure accountability and effectiveness in the use of Federal funds are also important elements of the ATR program. Grantees, as a contingency of their award, are responsible for collecting Voucher Information (VI) and Voucher Transaction (VT) data from their clients.

The primary purpose of this data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs. The following table is an estimated annual response burden for this effort.

ESTIMATES OF ANNUALIZED HOUR BURDEN <sup>1</sup>

Center/form/respondent type	Number of respondent	Responses per respondent	Total responses	Hours per response	Total hour burden	Total wage cost	Total hour cost/respondent <sup>1</sup>
Voucher information and transaction ...	53,333	1.5	80,000	.03	2,400	\$18.40	\$44,160

<sup>1</sup> This table represents the maximum additional burden if adult respondents for ATR provide responses/data at an estimated hourly wage (from 2010 Bureau of Labor Statistics).

Written comments and recommendations concerning the proposed information collection should be sent by August 2, 2017 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA\_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202-395-7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

**Summer King,**  
*Statistician.*

[FR Doc. 2017-13946 Filed 6-30-17; 8:45 am]

BILLING CODE 4162-20-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies**

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or

IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at <http://www.samhsa.gov/workplace>.

**FOR FURTHER INFORMATION CONTACT:** Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240-276-2600 (voice).

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53

FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. The "Mandatory Guidelines for Federal Workplace Drug Testing Programs," as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

#### **HHS-Certified Instrumented Initial Testing Facilities**

Dynacare, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780-784-1190 (Formerly: Gamma-Dynacare Medical Laboratories).

#### **HHS-Certified Laboratories**

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 844-486-9226.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615-255-2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504-361-8989/800-433-3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804-378-9130 (Formerly: Kroll Laboratory Specialists, Inc.,

Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I-30, Little Rock, AR 72209-7056, 501-202-2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215-2802, 800-445-6917.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800-235-4890.

Dynacare\*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519-679-1630 (Formerly: Gamma-Dynacare Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662-236-2609.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713-856-8288/800-800-2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908-526-2400/800-437-4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919-572-6900/800-833-3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866-827-8042/800-233-6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-873-8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651-636-7466/800-832-3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503-413-5295/800-950-5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612-725-2088, Testing for Veterans Affairs (VA) Employees Only.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661-322-4250/800-350-3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888-747-3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory). Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800-328-6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509-755-8991/800-541-7891x7.

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888-635-5840.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800-729-6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610-631-4600/877-642-2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818-737-6370 (Formerly: SmithKline Beecham Clinical Laboratories).

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800-255-2159.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800-442-0438.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755-5235, 301-677-7085, Testing for Department of Defense (DoD) Employees Only.

#### **Charles LoDico,**

*Chemist.*

[FR Doc. 2017-13913 Filed 6-30-17; 8:45 am]

**BILLING CODE 4160-20-P**

\* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Continued

**DEPARTMENT OF HOMELAND  
SECURITY**

**Federal Emergency Management  
Agency**

[Docket ID FEMA-2014-0022]

**Committee Management; Notice of  
Federal Advisory Committee Meeting**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee management; notice of federal advisory committee meeting.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will meet in person on Tuesday, July 25, 2017 and Wednesday, July 26, 2017 in Reston, Virginia. The meeting will be open to the public.

**DATES:** The TMAC will meet on Tuesday, July 25, 2017 from 8:00 a.m.–5:30 p.m. Eastern Daylight Time (EDT), and Wednesday, July 26, 2017 from 8:00 a.m.–5:30 p.m. EDT. Please note that the meeting will close early if the TMAC has completed its business.

**ADDRESSES:** The meeting will be held at the United States Geological Survey (USGS) Headquarters at 12201 Sunrise Valley Drive, Reston, VA 20192. Members of the public who wish to attend the meeting must register in advance by sending an email to [FEMA-TMAC@fema.dhs.gov](mailto:FEMA-TMAC@fema.dhs.gov) (Attention: Mark Crowell) by 11:00 p.m. EDT on Wednesday, July 19, 2017. Members of the public must follow signs for the Visitor's Entrance on the U.S. Geological Survey Drive entrance of the USGS; once you pull into the Visitor's Entrance, facility security will direct you to parking and where to check in at the front desk of the visitor's entrance at the USGS. Photo identification is required. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mark Crowell, Designated Federal Officer for the TMAC, at [mark.crowell@fema.dhs.gov](mailto:mark.crowell@fema.dhs.gov).

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated meeting

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on November 25, 2008 (73 FR 71858). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

materials will be available at [www.fema.gov/TMAC](http://www.fema.gov/TMAC) for review by Wednesday, July 19, 2017. Written comments to be considered by the committee at the time of the meeting must be submitted and received by Friday, July 21, 2017, identified by Docket ID FEMA-2014-0022, and submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* Address the email TO: [FEMA-RULES@fema.dhs.gov](mailto:FEMA-RULES@fema.dhs.gov) and CC: [FEMA-TMAC@fema.dhs.gov](mailto:FEMA-TMAC@fema.dhs.gov). Include the docket number in the subject line of the message. Include name and contact information in the body of the email.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8 NE, Washington, DC 20472-3100.

*Instructions:* All submissions received must include the words "Federal Emergency Management Agency" and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

*Docket:* For docket access to read background documents or comments received by the TMAC, go to <http://www.regulations.gov> and search for the Docket ID FEMA-2014-0022.

A public comment period will be held on Tuesday, July 25, 2017, from 3:00 p.m. to 3:30 p.m. EDT and again on Wednesday, July 26, 2017, from 12:00 p.m. to 12:30 p.m. EDT. Speakers are requested to limit their comments to no more than three minutes. The public comment period will not exceed 30 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by close of business on Friday, July 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mark Crowell, Designated Federal Officer for the TMAC, FEMA, 400 C Street SW., Washington, DC 20024, telephone (202) 646-3432, and email [mark.crowell@fema.dhs.gov](mailto:mark.crowell@fema.dhs.gov). The TMAC Web site is: <http://www.fema.gov/TMAC>.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the *Federal Advisory Committee Act*, 5 U.S.C. App.

In accordance with the *Biggert-Waters Flood Insurance Reform Act of 2012*, the TMAC makes recommendations to the FEMA Administrator on: (1) How to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use,

and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps, and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination, and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

*Agenda:* During the two-day meeting, TMAC members will review and discuss the draft content for each of the three TMAC 2017 Annual Report topics: Flood risk management and mitigation, residual risk, and future conditions. The TMAC members will also deliberate and vote on recommendations and other implementation actions for each of these topics. A brief public comment period will take place beginning at 3:00 p.m. on the first day, and 12:00 p.m. on the second day of the meeting. The public will also have an opportunity to comment prior to any vote. The full agenda and related briefing materials will be posted for review by Friday, July 21, 2017 at <http://www.fema.gov/TMAC>.

Dated: June 26, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Federal Emergency Management Agency.*

[FR Doc. 2017-13843 Filed 6-30-17; 8:45 am]

**BILLING CODE 9110-12-P**



**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID: FEMA–2017–0011; 1660–0011]

**Agency Information Collection Activities: Submission for OMB Review; Comment Request; Debt Collection Financial Statement****AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

**DATES:** Comments must be submitted on or before August 2, 2017.**ADDRESSES:** Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, or email address [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov). Or, Jackie Cohen, Chief, Debt Management Unit, FEMA Finance Center, Office of the Chief Financial Officer, FEMA at (540) 504–1650.

**SUPPLEMENTARY INFORMATION:** This information collection previously published in the **Federal Register** on April 17, 2017 at 82 FR 18154 with a 60 day public comment period. No comments were received. FEMA has revised the numbers for the annual cost to the Federal government between the information collection previously published with a 60 day public comment period and this information

collection. The annual cost to the Federal government is now \$49,570.00. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

**Collection of Information***Title:* Debt Collection Financial Statement.*Type of Information Collection:* Revision of a currently approved information collection.*OMB Number:* 1660–0011.*Form Titles and Numbers:* FEMA Form 127–0–1, Debt Collection Financial Statement.

*Abstract:* FEMA may request debtors to provide personal financial information on FEMA Form 127–0–1 concerning their current financial position. FEMA uses this information to determine whether to compromise, suspend, or completely terminate collection efforts on respondents' debts. This information is also used to locate debtor's assets if the debts are sent for judicial enforcement.

*Affected Public:* Individuals or households.*Estimated Number of Respondents:* 300.*Estimated Total Annual Burden Hours:* 225 hours.

*Estimated Cost:* The estimated annual cost to respondents for the hour burden is \$7,632.00. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is \$49,570.00.

Dated: June 22, 2017.

**Richard W. Mattison,***Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2017–13847 Filed 6–30–17; 8:45 am]

**BILLING CODE 9111–19–P****DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA–4318–DR; Docket ID FEMA–2017–0001]

**Arkansas; Major Disaster and Related Determinations****AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major

disaster for the State of Arkansas (FEMA–4318–DR), dated June 15, 2017, and related determinations.

**DATES:** *Effective Date:* June 15, 2017.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated June 15, 2017, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of April 26 to May 19, 2017, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.



The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Benton, Boone, Carroll, Clay, Faulkner, Fulton, Jackson, Lawrence, Pulaski, Randolph, Saline, Washington, and Yell Counties for Individual Assistance.

Baxter, Benton, Boone, Carroll, Clay, Cleburne, Conway, Craighead, Cross, Faulkner, Independence, Izard, Jackson, Lawrence, Madison, Marion, Mississippi, Montgomery, Newton, Ouachita, Perry, Poinsett, Prairie, Randolph, Saline, Washington, White, and Woodruff Counties for Public Assistance.

All areas within the State of Arkansas are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**Robert J. Fenton,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2017–13849 Filed 6–30–17; 8:45 am]

**BILLING CODE 9111–23–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA–4313–DR; Docket ID FEMA–2017–0001]

**Idaho; Amendment No. 1 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Idaho (FEMA–4313–DR), dated May 18, 2017, and related determinations.

**DATES:** Effective Date: June 22, 2017.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Idaho is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 18, 2017.

Benewah County for Public Assistance. (The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**Robert J. Fenton,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2017–13845 Filed 6–30–17; 8:45 am]

**BILLING CODE 9111–23–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA–4319–DR; Docket ID FEMA–2017–0001]

**Kansas; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–4319–DR), dated June 16, 2017, and related determinations.

**DATES:** *Effective Date:* June 16, 2017.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated June 16, 2017, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from a severe winter storm, snowstorm, straight-line winds, and flooding during the period of April 28 to May 3, 2017, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, David G. Samaniego, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Cherokee, Cheyenne, Crawford, Decatur, Finney, Gove, Graham, Grant, Greeley, Hamilton, Haskell, Kearny, Lane, Logan, Morton, Neosho, Norton, Rawlins, Scott, Seward, Sheridan, Sherman, Stanton, Stevens, Thomas, Wallace, and Wichita Counties for Public Assistance.

Greeley, Hamilton, Lane, Logan, Morton, Scott, Thomas, and Wallace Counties for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

All areas within the State of Kansas are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA);

97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

**Robert J. Fenton,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2017-13842 Filed 6-30-17; 8:45 am]

**BILLING CODE 9111-23-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

[FWS-HQ-MB-2017-N088; FF09M21200-167-FXMB1231099BPP0; OMB Control Number 1018-0103]

**Agency Information Collection Activities: Conservation Order for Light Geese**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service, Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This information collection is scheduled to expire on April 30, 2018. We 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.

**DATES:** To ensure that we are able to consider your comments on this IC, we must receive them by September 1, 2017.

**ADDRESSES:** Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275

Leesburg Pike, Falls Church, VA 22041-3803 (mail); or *Info\_Coll@fws.gov* (email). Please include “1018-0103” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Service Information Collection Clearance Officer at *Info\_Coll@fws.gov* (email) or (703) 358-2503 (telephone).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Migratory Bird Treaty Act (Act; 16 U.S.C. 703-712) implements the four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada), Mexico, Japan, and Russia. The Act authorizes and directs the Secretary of the Interior to allow hunting, taking, etc., of migratory birds subject to the provisions of and in order to carry out the purposes of the four treaties. Section VII of the U.S.-Canada Migratory Bird Treaty authorizes the taking of migratory birds that, under extraordinary conditions, become seriously injurious to agricultural or other interests.

The number of light geese (lesser snow, greater snow, and Ross’ geese) in the midcontinent region has nearly quadrupled during the past several decades, due to a decline in adult mortality and an increase in winter survival. We refer to these species and subspecies as light geese because of their light coloration, as opposed to dark geese, such as white-fronted or Canada geese. Because of their feeding activity, light geese have become seriously injurious to their habitat, as well as to habitat important to other migratory birds. This poses a serious threat to the short- and long-term health and status of some migratory bird populations. We believe that the number of light geese in the midcontinent region has exceeded long-term sustainable levels for their arctic and subarctic breeding habitats, and that the populations must be reduced. Title 50 of the Code of Federal Regulations (CFR) at part 21 provides authority for the management of overabundant light geese.

Regulations at 50 CFR 21.60 authorize States and tribes in the midcontinent and Atlantic flyway regions to control light geese within the United States through the use of alternative regulatory

strategies. The conservation order authorizes States and tribes to implement population control measures without having to obtain a Federal permit, thus significantly reducing their administrative burden. The conservation order is a streamlined process that affords an efficient and effective population reduction strategy, rather than addressing the issue through our permitting process. Furthermore, this strategy precludes the use of more drastic and costly direct population-reduction measures such as trapping and culling geese. States and tribes participating in the conservation order must:

- Designate participants and inform them of the requirements and conditions of the conservation order. Individual States and tribes determine the method to designate participants and how they will collect information from participants.

- Keep records of activities carried out under the authority of the conservation order, including:

- (1) Number of persons participating in the conservation order;
- (2) Number of days people participated in the conservation order;
- (3) Number of light geese shot and retrieved under the conservation order; and
- (4) Number of light geese shot, but not retrieved.

- Submit an annual report summarizing the activities conducted under the conservation order on or before September 15 of each year. Tribal information can be incorporated in State reports to reduce the number of reports submitted.

**II. Data**

*OMB Control Number:* 1018-0103.

*Title:* Conservation Order for Light Geese, 50 CFR 21.60.

*Service Form Number(s):* None.

*Type of Request:* Extension of a currently approved collection.

*Description of Respondents:* State and tribal governments; individuals who participate in the conservation order.

*Respondent’s Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* Annually.

Activity	Annual number of respondents	Number of responses each	Total annual responses	Completion time per response	Annual burden hours *
Conservation Order for Control of Light Geese (State/Tribal Governments):					
Reporting .....	39	1	39	42 hours .....	1,638
Recordkeeping .....				3 hours .....	117
Conservation Order Participants—Provide Information to States (Individuals or Households):					

Activity	Annual number of respondents	Number of responses each	Total annual responses	Completion time per response	Annual burden hours *
Reporting .....	21,538	1	21,538	8 minutes .....	2,872
Total .....	21,577	.....	21,577	.....	4,627

\* Rounded.

*Estimated Annual Non-hour Burden Cost:* \$78,000, primarily for State overhead costs (materials, printing, postage, etc.).

**III. Comments**

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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.

**IV. Authorities**

The authorities for this action are the Migratory Bird Treaty Act (16 U.S.C. 703–712) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 27, 2017.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2017–13883 Filed 6–30–17; 8:45 am]

**BILLING CODE 4333–15–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

[FWS–HQ–MB–2017–N061; FF07CAFB00–178–FXFR13350700001]

**Agency Information Collection Activities: OMB Control Number 1018–0146; Annual Report—Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service, Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This information collection is scheduled to expire on December 31, 2017. We 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.

**DATES:** To ensure that we are able to consider your comments on this IC, we must receive them by September 1, 2017.

**ADDRESSES:** Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *Info\_Coll@fws.gov* (email). Please include “1018–0146” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Service Information Collection Clearance Officer, at *Info\_Coll@fws.gov* (email) or (703) 358–2503 (telephone).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require we preserve most species of birds in the

United States, and activities involving migratory birds are prohibited except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter migratory birds or their parts, nests, or eggs except as authorized by regulation.

This information collection is associated with our regulations that implement the MBTA. In 2003, the Service issued regulations at 50 CFR 21.43 establishing a depredation order that authorize the take of blackbirds, cowbirds, crows, grackles, and magpies under certain circumstances. These regulations impose reporting and recordkeeping requirements. In this regulation is a depredation order that authorizes take of blackbirds, cowbirds, grackles, crows, and magpies “when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.”

All persons or entities acting under this depredation order must provide an annual report containing the following information for each species:

- Number of birds taken,
- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken, and
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources).

We collect this information so that we will be able to determine how many birds of each species are taken each year and whether the control actions are likely to affect the populations of those species.

**II. Data**

*OMB Control Number:* 1018–0146.

*Title:* Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows, 50 CFR 21.43.

*Service Form Number(s):* FWS Form 3–202–21–2143.

*Type of Request:* Extension of a currently approved collection.

*Description of Respondents:* State and Federal wildlife damage management personnel; farmers; and individuals.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* Annually.

Activity	Annual respondents	Annual responses	Completion time per response (hours)	Total annual burden hours*
Annual Report (FWS Form 3–202–21–2143):				
Individuals .....	5	5	2.5	13
Private Sector .....	5	5	2.5	13
State, Local, & Tribal Govt .....	20	20	2.5	50
Take Report:				
Individuals .....	1	1	1	1
Private Sector .....	1	1	1	1
State, Local, & Tribal Govt .....	3	3	1	3
Total .....	35	35	.....	81

\* Rounded.

*Estimated Annual Non-hour Burden Cost:* None.

### III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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.

### IV. Authorities

The authorities for this action are the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 27, 2017.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2017–13881 Filed 6–30–17; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–HQ–NCTC–2017–N086; FF09X32000–178–FXGO16610900400; OMB Control Number 1018–0115]

#### Agency Information Collection Activities: Application for Training, National Conservation Training Center

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service, Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on February 28, 2018. We 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.

**DATES:** To ensure that we are able to consider your comments on this IC, we must receive them by September 1, 2017.

**ADDRESSES:** Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please include “1018–0115” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Service Information Collection Clearance Officer, at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email) or (703) 358–2503 (telephone).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The U.S. Fish and Wildlife Service National Conservation Training Center (NCTC) in Shepherdstown, West Virginia, provides natural resource and other professional training for Service employees, employees of other Federal agencies, and other affiliations, including State agencies, private individuals, not-for-profit organizations, and university personnel. FWS Form 3–2193 (Training Application) is a quick and easy method for prospective students who are not from the Department of the Interior to request training. We encourage applicants to use FWS Form 3–2193 and to submit their requests electronically. However, we do not require applicants to complete both a training form required by their agency and FWS Form 3–2193. NCTC will accept any single training request as long as each submission identifies the name, address, and phone number of the applicant, sponsoring agency, class name, start date, and all required financial payment information.

NCTC uses data from the form to generate class rosters, class transcripts, and statistics, and as a budgeting tool for projecting training requirements. It is also used to track attendance, mandatory requirements, tuition, and invoicing for all NCTC-sponsored courses both onsite and offsite.

### II. Data

*OMB Control Number:* 1018–0115.

*Title:* Application for Training, National Conservation Training Center.  
*Service Form Number:* FWS Form 3–2193.

*Type of Request:* Extension of a currently approved collection.

*Description of Respondents:* Persons who wish to participate in training given at or sponsored by the National Conservation Training Center (NCTC).

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion when applying for training at NCTC.

*Estimated Annual Number of Respondents:* 250.

*Estimated Total Annual Responses:* 250.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 42.

*Estimated Annual Non-hour Burden Cost:* None.

### III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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.

### IV. Authorities

The authorities for this action are the Government Employees Training Act (5 U.S.C. 4101 *et seq.*); Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d–2000d–7); Executive Order 11348 (“Providing for the further training of Government employees”), as amended by Executive Order 12107 (“Relating to the Civil Service Commission and labor-management in the Federal Service”) (see 5 CFR 410, subpart C, “Establishing and Implementing Training Programs”); and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 27, 2017.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2017–13911 Filed 6–30–17; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

[BOEM 2017–0050]

#### Request for Information and Comments on the Preparation of the 2019–2024 National Outer Continental Shelf Oil and Gas Leasing Program MAA104000

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Request for information and comments.

**SUMMARY:** The Bureau of Ocean Energy Management (BOEM) is soliciting information and requesting comments on the preparation of a new five-year National Outer Continental Shelf Oil and Gas Leasing Program (National OCS Program) for 2019–2024 pursuant to the Outer Continental Shelf (OCS) Lands Act. Upon completion, the National OCS Program for 2019–2024 will replace the National OCS Program for 2017–2022 (2017–2022 Program), which was approved on January 17, 2017, and will succeed the National OCS Program for 2012–2017 on July 1, 2017.

**DATES:** BOEM must receive all comments and information by August 17, 2017.

**ADDRESSES:** Submit comments and information via the Federal internet commenting system at <http://www.regulations.gov> by following the instructions in the “Public Comment Procedure” section of this notice. Mail comments and information, including all privileged or proprietary information, by U.S. mail to Ms. Kelly Hammerle, National Program Manager, BOEM, 45600 Woodland Road, Mailstop VAM–LD, Sterling, VA 20166.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kelly Hammerle, National Program Manager, at (703) 787–1613 or by email at [add email address].

**SUPPLEMENTARY INFORMATION:** The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, declares that it is the policy of the United States that the OCS, as “a vital national resource reserve,” should be available for “expeditious and orderly development, subject to environmental safeguards” and consistent with maintaining competition and other national needs.

43 U.S.C. 1333(3). Section 18 of the OCS Lands Act, 43 U.S.C. 1344, requires the Department of the Interior (DOI) to invite and solicit information from interested and affected parties during the preparation of a National OCS Program. The 2017–2022 Program was approved on January 17, 2017, and will succeed the 2012–2017 Program on July 1, 2017. BOEM is soliciting information on the preparation of a new National OCS Program for 2019–2024 to, upon completion, replace the 2017–2022 Program.

Section 18 of the OCS Lands Act requires the Secretary of the Interior (Secretary) to prepare and periodically revise and maintain an oil and gas leasing program to implement the Act’s policies. The program must contain a schedule of proposed lease sales (including as precisely as possible, the size, timing, and location of leasing activity) which the Secretary determines “will best meet national energy needs for the five year period following its approval. . . .” Section 18 also requires the completion of a multi-step process of public consultation and analysis before the Secretary may approve a new National OCS Program. The process includes the following steps: (1) Issuance of a Request for Information and Comments (RFI); (2) development of a Draft Proposed Program (DPP), (3) development of a Proposed Program, (4) development of a Proposed Final Program (PFP); and (5) Secretarial approval of the Program. Following this RFI, the public will have additional opportunities to comment on both the DPP and the Proposed Program documents.

This RFI requests comments on all 26 OCS Planning Areas, including the areas that are restricted from leasing by Presidential withdrawal or Congressional moratorium, as discussed below. BOEM requests information and comments from States, local and tribal governments, Native American and Native Alaskan organizations, Federal agencies, environmental and other public interest organizations, the oil and gas industry, non-energy industries, other interested organizations and entities, and the general public, for use in the preparation of the 2019–2024 National OCS Program. BOEM is seeking a wide array of information, including, but not limited to, information associated with the economic, social, and environmental values of all OCS resources, as well as the potential impact of oil and gas exploration and development on other OCS resources, and on the marine, coastal and human environments.

The National OCS Program sets forth the proposed schedule of lease sales for the subsequent five-year period, and enables the Federal Government, States, industry, and other interested parties to begin planning for the later steps in the leasing process. The Secretary decides whether to proceed with each specific lease sale on the schedule included in an approved National OCS Program only after meeting all the requirements of the OCS Lands Act and other applicable statutes.

The initiation of a new National OCS Program development process at this time is a key aspect of the implementation of President Donald J. Trump's America-First Offshore Energy Strategy, as outlined in Executive Order (E.O.) 13795 of April 28, 2017 (82 FR 20815, May 3, 2017), and Secretary's Order 3350 of May 1, 2017, issued by Secretary of the Interior Ryan K. Zinke. Section 2 of E.O. 13795 states that it is United States policy to encourage energy exploration and production, including on the OCS, to maintain the Nation's global energy leadership and "foster energy security and resilience for the benefit of the American people, while ensuring that any such activity is safe and environmentally responsible." Secretary's Order 3350 calls for enhancing opportunities for energy exploration, leasing, and development of the OCS, establishing regulatory certainty for OCS activities, and enhancing conservation stewardship, thereby providing jobs, energy security, and revenue for the American people. As required by E.O. 13795, DOI will cooperate as appropriate and consistent with applicable law with the Department of Defense (DOD) and the Department of Commerce on a number of issues, including issues pertaining to this National OCS Program development process.

The OCS is a significant source of oil and gas to the Nation's energy supply. As of May 2017, BOEM administered over 3,000 active oil and gas leases covering 16 million OCS acres. Production from these leases generates billions of dollars in revenue for the Federal Treasury and State governments, while supporting hundreds of thousands of jobs. In fiscal year 2016, oil and gas leases on the OCS accounted for approximately 18 percent of domestic oil production and 4 percent of domestic natural gas production. The offshore areas of the United States also are estimated to contain significant quantities of resources in yet-to-be-discovered fields. In its 2016 National Assessment (<https://www.boem.gov/National-Assessment-2016>), BOEM reported that

the mean estimate of undiscovered, technically recoverable oil and gas resources in the U.S. OCS consist of 89.87 billion barrels of oil and 327.49 trillion cubic feet of natural gas.

#### **Gulf of Mexico (GOM)**

In March 2017, BOEM held the last of 12 lease sales in the GOM scheduled in the 2012–2017 Program. That Program included annual sales in the Central and Western GOM and two sales in the portion of the Eastern GOM not subject to the Congressional moratorium pursuant to the Gulf of Mexico Energy Security Act (GOMESA). These sales have generated approximately \$3.4 billion in high bids.

Lease Sale 248 in the Western GOM was held on August 24, 2016. Pursuant to this sale, BOEM awarded 24 leases to the 3 companies that submitted bids, totaling over \$18 million in high bids. Lease Sale 247 in the Central GOM was held on March 22, 2017. The sale generated almost \$275 million in high bids for 163 blocks by 28 companies. Lease Sale 226, held on March 23, 2016, offered for lease all available unleased acreage in the Eastern GOM, except for those whole and partial OCS blocks deferred by the GOMESA. No bids were received for Sale 226.

BOEM is also moving forward in the prelease sale process for the early sales scheduled in the recently approved 2017–2022 Program, which is effective July 1, 2017, and includes ten region-wide lease sales in the area of the GOM not under Congressional moratorium or otherwise unavailable for leasing. For more information on the lease sale schedule, visit: <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Lease-Sale-Schedule/2012-2017-Lease-Sale-Schedule.aspx>. These scheduled lease sales will not be impacted by the preparation of the 2019–2024 National Outer Continental Shelf Oil and Gas Leasing Program.

#### **Alaska**

The last sale in the 2012–2017 Program is scheduled for June 21, 2017, in the northern portion of the Cook Inlet Planning Area offshore Alaska. The 2017–2022 Program also schedules a sale in the northern portion of the Cook Inlet Planning Area in 2021. Prelease sale steps will begin in the next year.

The Arctic holds substantial oil and gas potential. In 2016, BOEM estimated Undiscovered Technically Recoverable Oil and Gas Resources (UTRR) in the Chukchi Sea Planning Area to be 29 billion barrels of oil equivalent (BBOE) and in the Beaufort Sea Planning Area to be 13 BBOE. The 2016 National

Assessment for all OCS areas is available at <https://www.boem.gov/National-Assessment-2016/>. No sales are scheduled in the Arctic in the 2017–2022 Program.

#### **Atlantic**

Data suggests that portions of the Atlantic OCS may contain significant oil and gas resource potential (see 2016 National Assessment cited above); however, current geological and geophysical (G&G) information regarding that potential is based on data collected in the 1970s and early 1980s. Tremendous advances in instrumentation and technology for the acquisition and analysis of G&G data have been made in the intervening decades.

In recognition of these advances in G&G data acquisition technology and the need to better understand the scope of existing resources, BOEM published, on July 23, 2014 (79 FR 42815), a Record of Decision for the Programmatic Environmental Impact Statement for Atlantic G&G activities, which established a path forward for G&G activities off the Mid- and South Atlantic coast. BOEM is currently evaluating several G&G permit applications. With the initiation of a new Program development process and, with it, the renewed potential for a lease sale in the Atlantic region, BOEM may receive new G&G permit applications in the near future. The last lease sale held in the Atlantic OCS was in 1983.

#### **Pacific Region**

The four planning areas off the Pacific coast were not included for potential leasing in the 2017–2022 Program. Eleven OCS oil and gas lease sales were held in the Pacific Region between 1963 and 1984. A total of 470 leases were issued in the 11 sales. Today, there are 43 producing leases and 23 oil and gas platforms, all offshore southern California. In Fiscal Year 2016, production from these leases generated \$31.2 million in revenue to the federal treasury from a total of \$234 million in sales value from crude oil and natural gas. As a result of Congressional moratoria, subsequent presidential action, and consistent and united opposition by the States of Washington, Oregon, and California to any activity off their coasts, the Pacific OCS has not been included in any National OCS Program since the 1987–1992 Program.

#### **Areas Made Unavailable by Congressional or Presidential Action**

With the enactment of GOMESA, Congress placed off-limits to OCS oil and gas leasing activities, through June

30, 2022, the Eastern Gulf of Mexico within 125 miles of Florida; all of the Eastern Gulf of Mexico east of 86 degrees, 41 minutes West longitude; and a portion of the Central Gulf of Mexico within 100 miles of Florida (see Figure 2).

The North Aleutian Basin Planning Area in Alaska was withdrawn from future leasing consideration for a time period without specific expiration by President Barack Obama on December 16, 2014, pursuant to section 12(a) of the OCS Lands Act, 43 U.S.C. 1341(a).

All National Marine Sanctuaries were withdrawn from leasing, for a time period without a specific expiration, by President William J. Clinton on June 12, 1998. Pursuant to E.O. 13795, President Trump withdrew marine sanctuaries that were designated as of July 14, 2008, from disposition by leasing. On September 15, 2016, President Obama designated the first marine national monument in the Atlantic Ocean off the coast of New England as the Northeast Canyons and Seamounts Marine National Monument, prohibiting exploring for, developing, or producing oil and gas or minerals, or undertaking any other energy exploration or development activities within the monument.

In the DPP, BOEM will analyze all 26 OCS Planning Areas, including areas that may be currently unavailable for leasing. An area that is currently unavailable for leasing could still be part of a National OCS Program, but could not be offered for sale until Congress and/or the President, as applicable, makes it available.

#### **National Energy Needs**

Section 18 of the OCS Lands Act requires that the Secretary consider national energy needs in formulating the National OCS Program. In developing the National OCS Program, BOEM will present an analysis of the contribution of OCS oil and natural gas to the U.S. economy and the Nation's anticipated energy needs. The analysis will include discussions of the U.S. Energy Information Administration's projections of national energy needs in the Annual Energy Outlook, the potential contribution of OCS oil and natural gas production in meeting those needs, alternative sources to OCS production, and considerations relating to national and regional energy markets. BOEM invites comments from anyone who would like to submit information related to the Nation's future energy needs or national and regional energy markets for consideration in determining the appropriate size, timing, and location of OCS oil and gas

lease sales for the new National OCS Program.

#### **OCS Planning Areas To Be Considered and Analyzed**

Section 18 of the OCS Lands Act requires that the National OCS Program be based upon a consideration of a comparative analysis of the oil- and gas-bearing regions of the OCS. BOEM has divided the OCS into 26 Planning Areas, which are depicted in Figures 1 and 2. The depicted maritime boundaries and limits, as well as divisions between planning areas, where shown, are for planning and administrative purposes only. Note that precise maritime boundaries between the United States and nearby or adjacent nations have not been determined in all cases. These depictions do not affect or prejudice in any manner the position of the United States, or its individual States, with respect to the nature or extent of internal waters or of sovereign rights or jurisdiction.

This RFI requests information on all 26 planning areas, including areas currently under moratorium, withdrawn, or otherwise unavailable. As set forth in more detail later in this RFI, the information requested is wide-ranging, including information on other uses of the sea, marine productivity, and environmental sensitivity. Accordingly, this RFI invites and provides an opportunity for Governors of affected States, local government, industry, Federal agencies, and the general public to provide suggestions and any other information they believe BOEM should evaluate for purposes of the 2019–2024 Program.

The information solicited in this RFI will be considered in light of the factors specified by section 18 of the OCS Lands Act, which are discussed later herein. Based upon consideration of the analysis of those factors, the Secretary will prepare the DPP and decide which areas to include therein. Pursuant to section 18 of the OCS Lands Act, areas included in the DPP decision will be subject to further analysis.

#### **Section 18 of the OCS Lands Act**

As previously noted, the National OCS Program preparation process will follow all the procedural and substantive requirements of section 18 of the OCS Lands Act. This RFI solicits information and comments early in the preparation process pursuant to section 18(c)(1) of the OCS Lands Act, 43 U.S.C. 1344(c)(1). BOEM will prepare a DPP decision document based upon consideration of the information and comments received and analysis of the principles and factors specified in

section 18 of the OCS Lands Act. The DPP decision document will present for review and comment a preliminary schedule of proposed lease sales and potential decision options.

Section 18 of the OCS Lands Act provides that, for purposes of preparing a National OCS Program, the Secretary should take into consideration the economic, social, and environmental values of all OCS resources, as well as the potential impact of oil and gas exploration and development on other resource values of the OCS and the marine, coastal and human environments. The eight factors that must be considered in determining the timing and location of leasing under the National OCS Program are set forth in section 18(a)(2) of the OCS Lands Act, 43 U.S.C. 1344(a)(2). They are (1) existing information on the geographical, geological, and ecological characteristics of OCS regions; (2) equitable sharing of developmental benefits and environmental risks among the various regions; (3) the location of such regions with respect to, and the relative needs of, regional and national energy markets; (4) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sea lanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the OCS; (5) expressed industry interest in the development of oil and gas resources; (6) laws, goals, and policies of affected States specifically identified by governors; (7) the relative environmental sensitivity and marine productivity of different areas of the OCS; and (8) environmental and predictive information for different areas of the OCS.

Section 18(a)(3) of the OCS Lands Act, 43 U.S.C. 1344(a)(3), requires the Secretary to obtain a proper balance among the potential for environmental damage, the potential for discovery of oil and gas, and the potential for adverse impact on the coastal zone, for which the DOI will provide a cost-benefit analysis, as appropriate, to supplement qualitative consideration of these factors. The OCS Lands Act also requires that leasing activities assure the receipt of fair market value for the lands leased and rights conveyed by the Federal Government in the OCS. Section 18(a)(4) of the OCS Lands Act, 43 U.S.C. 1344(a)(4).

#### **Types of Information Requested**

BOEM invites comments from anyone who would like to submit information and/or suggestions for consideration in determining, among others things, the appropriate size, timing, and location of



potential OCS oil and gas lease sales under the 2019–2024 Program. Please note that BOEM invites all private and public stakeholders, as well as the general public, to comment or provide any information that they believe should be taken into consideration by BOEM during the preparation of the 2019–2024 Program.

This request constitutes a general solicitation of comments and does not seek information about commenters, other than that necessary for self-identification. Therefore it is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3521. (Please refer to implementing regulations at 5 CFR 1320.3(h)(4).)

#### *General Information Requested*

BOEM would like to receive comments and suggestions of national or regional application that would be useful in formulating the National OCS Program. The types of information that would be most useful in conducting the analysis, pursuant to section 18 of the OCS Lands Act, relate to the following factors:

(1) National energy needs for the period relevant to the new National OCS Program (*i.e.*, 2019 to 2024), in particular, the role of OCS oil and gas leasing and resulting exploration, development and production activities in achieving national energy policy goals; the economic, social, and environmental values of the renewable and nonrenewable resources contained in the OCS; and the potential impact of oil and gas exploration and development on other OCS resource values and the marine, coastal, and human environments;

(2) existing information concerning geographical, geological, and ecological characteristics of the OCS planning areas and near shore and coastal environments;

(3) equitable sharing of developmental benefits and environmental risks among the various planning areas;

(4) location of planning areas with respect to, and the relative needs of, regional and national energy markets;

(5) other uses of the sea and seabed, including commercial and recreational fisheries; navigation; military activities; existing or proposed sea lanes; potential sites of deepwater ports (including liquefied natural gas facilities); subsea cables; satellite launch activities; potential offshore wind, wave, current, or other alternative energy sites; and other anticipated uses of OCS resources and locations;

(6) relative environmental sensitivity and marine productivity of the different

planning areas and/or a specific section(s) of a given OCS planning area;

(7) environmental and predictive information pertaining to offshore and coastal areas potentially affected by OCS oil and gas development including, but not limited to, socio-cultural and archaeological information; and

(8) methods and procedures for assuring the receipt of fair market value for lands leased.

#### *Fair Market Value Information Requested*

In developing the methods and procedures for assuring the receipt of fair market value for lands leased under section 18(a)(4) of the OCS Lands Act, 43 U.S.C. 1344(a)(4), BOEM sets lease fiscal and temporal terms, and other features relevant to bidding. Given BOEM's responsibility to ensure fair market value for the U.S. Government, BOEM is seeking information in response to the following questions:

(1) If DOI continues leasing in the Gulf of Mexico planning areas, are there changes to lease terms that would better meet the objectives of the OCS Lands Act? Lease terms subject to change include:

- a. Minimum bids
- b. Rental rates
- c. Royalty rates, royalty structures (*e.g.*, flat or price-based)
- d. Initial period (also known as primary term) of the lease term and extended initial period (such as, 7 years plus 3 years more if drilling commences)

(2) If DOI offers acreage for lease in planning areas outside the Gulf of Mexico, what fiscal terms for each planning area would best meet the objectives and limitations of the OCS Lands Act regarding the lease terms listed in items 1a. to 1d. above?

a. Is there an alternative design (*e.g.*, auction-type design) that may be better suited to achieve fair market value, either by changing the bidding variable or some other aspect of the competitive lease sale?

b. Should the upcoming program consider use of alternative and/or non-traditional fiscal terms, primary lease terms, auction formats, or tract offering sizes? Please state which of these features of the leasing process merit consideration for future use, where and under what conditions those changes might be useful, and explain why such a change would be necessary or beneficial, *e.g.*, demonstrate that exploration would not occur in selected frontier areas without larger than traditionally-sized tracts in lease sales.

Please note that BOEM is requesting information on these topics to inform its

continuing evaluation of market conditions, available resources, bidding patterns (if applicable), and competitiveness of OCS lease terms with respect to each proposed sale. BOEM is asking for public input regarding lease terms or potential changes to lease terms concerning acreage offered during the 2019–2024 Program.

#### *Specific Information Requested*

##### *From States*

For Coastal States, pursuant to section 18(f)(5) of the OCS Lands Act, 43 U.S.C. 1344(f)(5), and implementing regulations at 30 CFR 556.202, BOEM requests information concerning the relationship between OCS oil and gas activity and the States' coastal zone management programs that are being developed, or are administered, under section 305 or 306 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1454, 1455. BOEM also requests that non-coastal and Coastal States submit information concerning environmental risk and potential for damage to coastal and marine resources associated with OCS development, information related to other uses of the sea, and any information that is relevant to equitable sharing of developmental benefits and environmental risks associated with OCS oil and gas activity (or the likely energy substitutes in the absence of new OCS leasing). In addition, for non-coastal and Coastal States, information is requested on the impacts of additional OCS leasing, exploration and production and the associated economic impact on the State and national economies and citizens, including impacts to employment, existing and new industries, future export potential, and state taxes.

##### *From the Oil and Gas Industry*

Pursuant to section 18(a)(2)(E) of the OCS Lands Act, 43 U.S.C. 1344(a)(2)(E), BOEM will take into account, during the preparation of the National OCS Program, the interest of oil and gas producers in the development of oil and gas resources, as indicated by exploration or nomination. Industry respondents should base this information upon their expectations as of 2017. For each planning area in which industry respondents are interested, they should submit information concerning unleased hydrocarbon potential, future oil and gas price expectations, and other relevant information that the industry respondent uses in making OCS oil and gas leasing decisions. BOEM requests that industry respondents provide

additional information, as specified below:

(1) Indicate the OCS Planning Area(s) where the industry respondent would be interested in acquiring oil and gas leases, regardless of whether the area currently is unavailable. If more than one Planning Area is of interest, rank all areas of interest (including those now being offered, if appropriate) in order of preference.

(2) Indicate the number and timing of lease sales in the period 2019–2024 that would be appropriate for each Planning Area. If only one lease sale in a Planning Area is appropriate, indicate whether that area should be considered for leasing early or late in the five-year schedule. If more than one lease sale in a planning area is suggested, indicate the preferred interval between lease sales.

(3) Indicate the expected lead time to production in areas that are not part of the 2017–2022 Program or currently do not have infrastructure or production, relative to lead-times to new production in previously leased areas like the Central and Western Gulf of Mexico.

(4) In addition, BOEM requests information on industry's view of the utility of region-wide sales in the Gulf of Mexico as planned in the 2017–2022 National Program.

Section 18(g) of the OCS Lands Act, 43 U.S.C. 1344(g), authorizes confidential treatment of privileged or proprietary information. In order to ensure security and confidentiality of proprietary information to the maximum extent possible, BOEM requests that proprietary information only be sent by U.S. mail. In addition to prominently stating that proprietary information is contained in the comment at the beginning of the submission, comments should be sent in a plain outer envelope with an inner envelope stating that proprietary information is contained within.

From the U.S. Department of Commerce

Pursuant to section 18(f)(5) of the OCS Lands Act, 43 U.S.C. 1344(f)(5), and implementing regulations at 30 CFR 556.202, BOEM requests information concerning relationships between affected States' coastal zone management programs and OCS oil and gas activities. In coordination with this RFI, BOEM will also send a letter to the

Secretary of Commerce soliciting such information.

From the U.S. Department of Energy

Pursuant to BOEM's regulations at 30 CFR 556.202, BOEM requests information concerning regional and national energy markets, and transportation networks, including the role of exports. In coordination with this RFI, BOEM will also send a letter to the Secretary of Energy soliciting such information.

From the U.S. Department of Defense (DOD)

BOEM respects the needs of DOD in their mission of protecting the United States and continues to work closely with DOD to understand and identify potential measures to address any conflicts on the OCS. Multiple use challenges are a concern in many OCS areas, in particular the military's use of portions of the Mid- and South Atlantic Planning Areas. As in the past, BOEM requests that DOD provide textual and graphic information as to the areas where oil and gas operations could be carried out. BOEM and DOD are committed to working through multiple use challenges so that each of our important missions is accomplished. Such detailed cooperation already occurs in the GOM and offshore California. During preparation of the 2017–2022 Program, DOD identified 95 percent of the proposed Atlantic Program Area as largely compatible with oil and gas activities, as long as appropriate mitigation measures are applied.

#### Public Comment Procedure

BOEM will accept comments in one of two formats: The internet commenting system, *regulations.gov*, or regular U.S. mail. Comments submitted by other means may not be considered. BOEM's strong preference is to receive comments via *regulations.gov*, except in the event that a comment contains information that is proprietary. Comments should be submitted using only one of these formats, and include full names and addresses of the individual submitting the comment(s). Before including 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.

#### Commenting via Internet

Internet comments should be submitted via the Federal internet commenting system at <http://www.regulations.gov>. BOEM requests that commenters follow these instructions to submit their comments via this Web site:

(1) In the search tab on the main page, search for BOEM–2017–0050.

(2) Locate the document, then click the “Submit a Comment” link either on the Search Results page or the Document Details page. This will display the Web comment form.

(3) Enter the submitter information and type the comment on the Web form. Attach any additional files (up to 10MB). (BOEM cannot ensure the security or confidentiality of information sent via the internet; therefore, information that is proprietary should be provided by U.S. mail as provided in the “From Oil and Gas Industry” section of this RFI.)

(4) After typing the comment, click the “Preview Comment” link to review. Once satisfied with the comment, click the “Submit” button to send the comment.

Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's “User Tips” link.

#### Commenting via Regular Mail

Mail comments and information on the 2019–2024 Program to Ms. Kelly Hammerle, National Program Manager, BOEM, 45600 Woodland Road, Mailstop VAM–LD, Sterling, VA 20166.

BOEM will post all comments to *regulations.gov*, subject to the limitations described in this section.

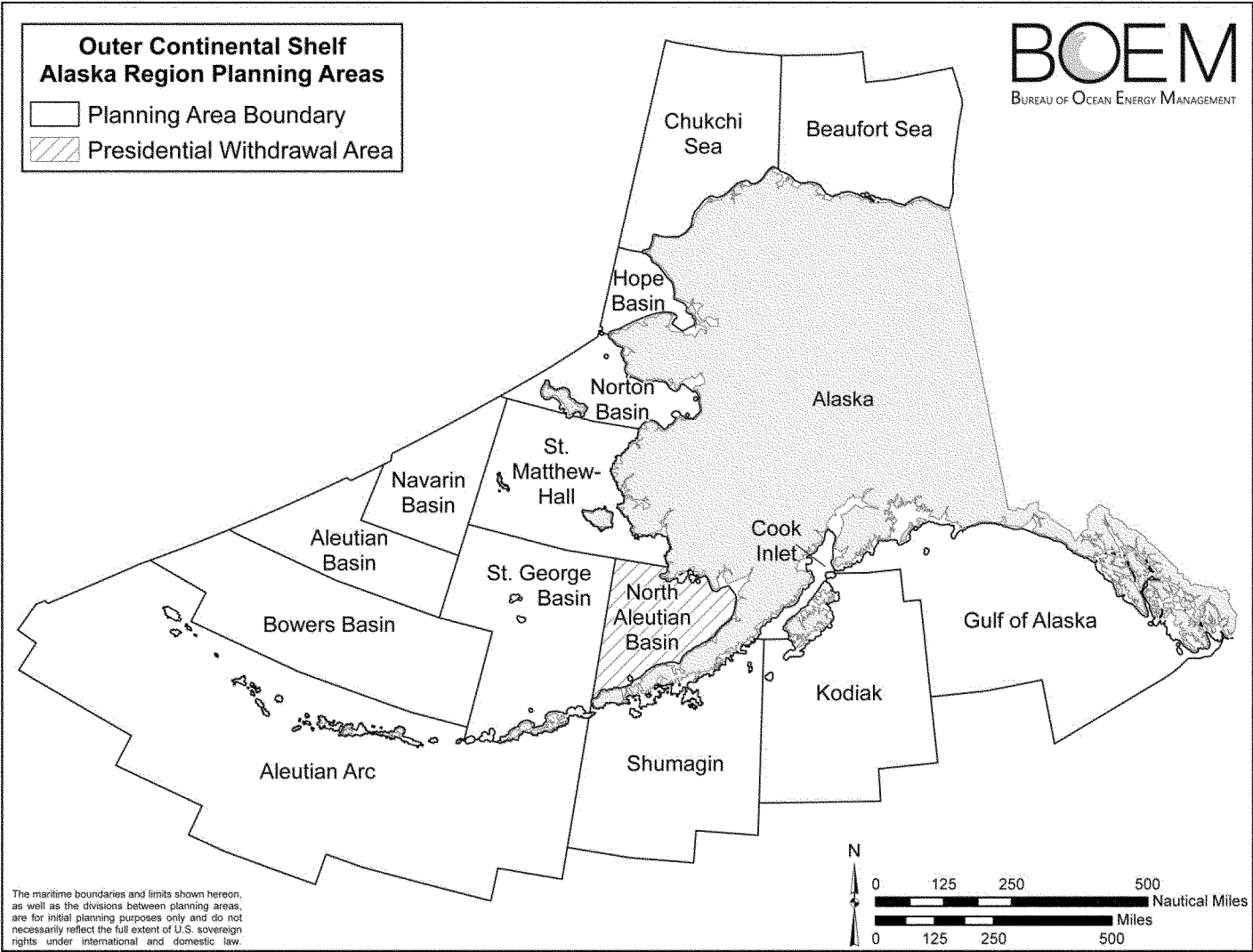
Dated: June 28, 2017.

**Walter D. Cruickshank,**

*Acting Director, Bureau of Ocean Energy Management.*

**BILLING CODE 4310–MR–P**

Figure 1





**DEPARTMENT OF THE INTERIOR****Bureau of Reclamation**

[RR83550000, 178R5065C6,  
RX.59389832.1009676]

**Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939, as amended and supplemented. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

**ADDRESSES:** The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225-0007; telephone 303-445-2888.

**SUPPLEMENTARY INFORMATION:** Consistent with section 9(f) of the Reclamation Project Act of 1939, as amended and supplemented, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the

sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the

notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

**Definitions of Abbreviations Used in the Reports**

ARRA American Recovery and Reinvestment Act of 2009  
BCP Boulder Canyon Project Reclamation Bureau of Reclamation  
CAP Central Arizona Project  
CUP Central Utah Project  
CVP Central Valley Project  
CRSP Colorado River Storage Project  
FR Federal Register  
IDD Irrigation and Drainage District  
ID Irrigation District  
M&I Municipal and Industrial  
O&M Operation and Maintenance  
OM&R Operation, maintenance, and replacement  
P-SMBP Pick-Sloan Missouri Basin Program  
PPR Present Perfected Right  
RRA Reclamation Reform Act of 1982  
SOD Safety of Dams  
SRPA Small Reclamation Projects Act of 1956  
USACE U.S. Army Corps of Engineers  
WD Water District

*Pacific Northwest Region:* Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706-1234, telephone 208-378-5344.

*New contract action:*  
17. Talent, Medford, and Rogue River Valley IDs; Rogue River Basin Project;  
OR: Contracts for repayment of reimbursable shares of SOD program modifications for Howard Prairie Dam.

*Completed contract action:*  
14. Talent, Medford, and Rogue River Valley IDs; Rogue River Basin Project; Oregon: Contracts for repayment of reimbursable shares of SOD program modifications for Hyatt Dam. Contracts executed in March 2017.

*Mid-Pacific Region:* Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825-1898, telephone 916-978-5250.

*Completed contract action:*  
46. Sacramento County Water Agency, CVP, California: Assignment of 7,000 acre-feet of CVP water to the City of Folsom. Contract executed on December 21, 2016.

*Lower Colorado Region:* Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006-1470, telephone 702-293-8192.

*New contract actions:*

20. Ak-Chin Indian Community and Del Webb Corporation, CAP, Arizona: Execute a CAP water lease in order for the Ak-Chin Indian Community to lease 1,800 acre-feet of its CAP water to the Del Webb Corporation during calendar year 2017.

21. Gold Dome Mining Corporation and Wellton-Mohawk IDD, Gila Project, Arizona: Terminate contract No. 0-07-30-W0250 pursuant to Articles 11(d) and 11(e).

22. Estates of Anna R. Roy and Edward P. Roy, Gila Project, Arizona: Terminate contract No. 6-07-30-W0124 pursuant to Article 9(c).

*Discontinued contract action:*

3. Sherrill Ventures, LLLP and Green Acres Mohave, LLC; BCP; Arizona: Draft contracts for PPR No. 14 for 1,080 acre-feet of water per year as follows: Sherrill Ventures, LLLP, a draft contract for 954.3 acre-feet per year and Green Acres Mohave, LLC, a draft contract for 125.7 acre-feet per year.

*Completed contract actions:*

6. Metropolitan Water District of Southern California, San Diego County Water Authority, and Otay WD; BCP; California: Execute amendment No. 2 to extend the "Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and the Operation of Facilities in the United States" until November 9, 2019. Contract executed on January 19, 2017.

7. Central Arizona Water Conservation District, CAP, Arizona: Negotiate a wheeling agreement for the wheeling of nonproject water (CAP System Use Agreement), in accordance with the District's existing contract. Contract executed on February 2, 2017.

12. Imperial ID, Lower Colorado River Water Supply Project, California: Develop an agreement between Reclamation and Imperial ID for the funding of design, construction, and installation of power facilities for the Project. Contract executed on February 11, 2017.

13. San Carlos Apache Tribe and the Pascua Yaqui Tribe, CAP, Arizona: Execute a CAP water lease in order for the San Carlos Apache Tribe to lease 2,230 acre-feet of its CAP water to the Pascua Yaqui Tribe during calendar year 2017. Contract executed on January 10, 2017.

17. Fort McDowell Yavapai Nation and the Town of Gilbert, CAP, Arizona: Execute amendment No. 5 to a CAP water lease to extend the term of the lease in order for the Fort McDowell Yavapai Nation to lease 13,933 acre-feet

of its CAP water to the Town of Gilbert during calendar year 2017. Contract executed on February 23, 2017.

*Upper Colorado Region:* Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138-1102, telephone 801-524-3864.

*New contract actions:*

41. Weber Basin Water Conservancy District, Weber Basin Project, Utah: The District requires an amendment to its block notices for construction costs not currently under repayment.

42. Weber Basin Water Conservancy District, Weber Basin Project, Utah: The District requires a Contributed Funds Act agreement for reimbursable costs not currently under contract.

43. Collbran Water Conservancy District, Collbran Project, Colorado: Laramie Energy has requested an exchange contract for exchange of water on the Collbran Project.

44. Jicarilla Apache Nation, Navajo Project, New Mexico: Water service agreement between the Jicarilla Apache Nation and BP America Production Company for delivery of 1,500 acre-feet of M&I water from the Jicarilla's settlement water from the Navajo Reservoir Supply for a 5-year term.

*Discontinued contract action:*

7. Carbon Water Conservancy District, Scofield Project, Utah: The District has requested Reclamation's assistance with O&M activities to rehabilitate certain portions of the Scofield Dam outlet works and surrounding area. Work was completed as part of Reclamation's extraordinary maintenance authorities and no further action is required.

*Completed contract actions:*

30. Provo River Restoration Project, Utah: The Utah Reclamation Mitigation and Conservation Commission is amending agreement No. 9-LM-40-01410 to include additional acreage in the boundaries of the Provo River Restoration Project. Contract executed on January 23, 2017.

9. Uintah Water Conservancy District; Vernal Unit, CUP; Utah: The District desires to pipe the Steinaker Service Canal to improve public safety, decrease O&M costs, and increase water efficiency. This action will require a supplementary O&M contract to modify Federal Reclamation facilities, as well as an agreement written under the authority of the Civil Sundry Appropriations Act of 1921 for Reclamation to accept funds to review designs, inspect project construction, and any other activities requiring Reclamation's participation. Contract executed on June 27, 2016.

44. Jicarilla Apache Nation, Navajo Project, New Mexico: Water service agreement between the Jicarilla Apache

Nation and BP America Production Company for delivery of 1,500 acre-feet of M&I water from the Jicarilla's settlement water from the Navajo Reservoir Supply for a 5-year term. Contract executed on November 3, 2016.

*Great Plains Region:* Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406-247-7752.

*New contract action:*

33. Town of Estes Park, Colorado-Big Thompson Project, Colorado: Consideration of a renewal of contract with the Town of Estes Park.

*Discontinued contract action:*

30. Hickory Swings Golf Course; Canyon Ferry Unit, P-SMBP; Montana: Consideration to amend contract No. 159E670039 to increase the water supply from 20 to 50 acre-feet.

*Completed contract actions:*

10. Southeastern Colorado Water Conservancy District, Fryingpan-Arkansas Project, Colorado: Consideration of an excess capacity master storage contract. Contract executed on December 23, 2016.

19. Mirage Flats ID, Mirage Flats Project, Nebraska: Consideration of a contract action for repayment of SOD costs. Contract executed December 13, 2016.

24. Bostwick Division, P-SMBP: Excess capacity contract with the State of Nebraska and/or State of Kansas entities and/or irrigation districts. Contract executed on December 13, 2016.

27. Central Oklahoma Master Conservancy District, Norman Project, Oklahoma: Consideration of a contract for a supply of water made possible when infrequent and otherwise unmanageable flood flows of short duration create a temporary supply of water. Contract executed on February 14, 2017.

Dated: May 2, 2017.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2017-13958 Filed 6-30-17; 8:45 am]

**BILLING CODE 4332-90-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Reclamation**[RR02030000, 17XR0687NA,  
RX185279056002000]**Draft Supplement to the Final  
Environmental Impact Statement/  
Environmental Impact Report for Los  
Vaqueros Reservoir Expansion, Contra  
Costa County, California****AGENCY:** Bureau of Reclamation,  
Interior.**ACTION:** Notice of availability and notice  
of public hearings.

**SUMMARY:** The Bureau of Reclamation, as the National Environmental Policy Act Federal lead agency, and the Contra Costa Water District, as the California Environmental Quality Act State lead agency, have made available for public review and comment the Los Vaqueros Reservoir Expansion Project Draft Supplement to the Final Environmental Impact Statement/Environmental Impact Report (Draft SEIS/EIR). The Draft SEIS/EIR describes and presents the environmental effects of the No-Action Alternative and four action alternatives. Six public hearings will be held to receive comments from individuals and organizations on the Draft SEIS/EIR.

**DATES:** Submit written comments on the Draft SEIS/EIR on or before September 1, 2017.

Six public hearings have been scheduled to receive oral or written comments regarding environmental effects:

- Tuesday, July 11, 2017, 1:30 p.m.–3:30 p.m., Sacramento, CA
- Wednesday, July 12, 2017, 6:30 p.m.–8:30 p.m., Santa Clara, CA
- Tuesday, July 18, 2017, 6:30 p.m.–8:30 p.m., Concord, CA
- Thursday, July 20, 2017, 6:30 p.m.–8:30 p.m., Oakland, CA
- Tuesday, July 25, 2017, 6:30 p.m.–8:30 p.m., Brentwood, CA
- Thursday, July 27, 2017, 1:30 p.m.–3:30 p.m., Los Banos, CA

A 1-hour open house to view project information and interact with the project team will precede each public hearing.

**ADDRESSES:** Send written comments on the Draft SEIS/EIR to Ms. Lisa Rainger, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, or [lrainger@usbr.gov](mailto:lrainger@usbr.gov).

Electronic CD copies of the Draft SEIS/EIR may be requested from Ms. Marguerite Patil, Contra Costa Water District, at 925–688–8018, or [LVE@ccwater.com](mailto:LVE@ccwater.com). The Draft SEIS/EIR is also

accessible from the following Web site: [http://www.usbr.gov/mp/nepa/nepa\\_projdetails.cfm?Project\\_ID=903](http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=903).

The public hearings will be held at the following locations:

- Sacramento—Tsakopoulos Library Galleria, 828 I Street, Sacramento, CA 95814
- Santa Clara—Santa Clara Valley Water District, 5750 Almaden Expressway, Santa Clara, CA 95118
- Concord—Contra Costa Water District, 1331 Concord Avenue, Concord, CA 94520
- Oakland—East Bay Municipal Utility District, 375 11th Street, Oakland, CA 94607
- Brentwood—Brentwood Community Center, 35 Oak Street, Brentwood, CA 94513
- Los Banos—San Luis National Wildlife Refuge Complex Headquarters and Visitors Center, 7376 S. Wolfen Road, Los Banos, CA 93635

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa Rainger, Bureau of Reclamation, at 916–978–5090 (TDD 916–978–5608), or [lrainger@usbr.gov](mailto:lrainger@usbr.gov).

**SUPPLEMENTARY INFORMATION:** The Draft SEIS/EIR documents the direct, indirect, and cumulative effects to the physical, biological, and socioeconomic environment that may result from the expansion of Los Vaqueros Reservoir.

The Los Vaqueros Reservoir Expansion Project Draft SEIS/EIR evaluates expanding the existing Los Vaqueros Reservoir and conveyance facilities. Los Vaqueros Reservoir was previously expanded to 160 thousand acre-feet (TAF), and the Bureau of Reclamation (Reclamation) and Contra Costa Water District (CCWD) are currently evaluating the second phase of expansion up to the 275 TAF capacity. The project objectives consist of: (1) Developing water supplies for environmental water management that supports fish protection, habitat management, and other environmental water needs; (2) increasing water supply reliability for water providers within the San Francisco Bay Area, to help meet municipal and industrial water demands during drought periods and emergencies or to address shortages due to regulatory and environmental restrictions; and (3) improving the quality of water deliveries to municipal and industrial customers in the San Francisco Bay Area, without impairing the project's ability to meet the environmental and water supply reliability objectives stated above.

One of the five potential surface storage projects described in the CALFED Bay-Delta Program's long-term

plan is the expansion of the existing Los Vaqueros Reservoir, an existing 160,000 acre-foot off-stream surface storage facility, located in Contra Costa County, California. The existing facility is owned and operated by CCWD.

The primary study area includes the Los Vaqueros Reservoir watershed and associated dam and reservoir facilities, which are situated in the coastal foothills west of the Delta and east of the Bay Area, the central and south Delta, and service areas of Bay Area water agencies. The Bay Area water agencies and additional water agencies served by the Central Valley Project potentially affected include CCWD, Alameda County Flood Control and Water Conservation District, Zone 7, Alameda County Water District, Bay Area Water Supply and Conservation Agency, Byron-Bethany Irrigation District, City of Brentwood, East Bay Municipal Utility District, East Contra Costa Irrigation District, San Francisco Public Utilities Commission, San Luis & Delta-Mendota Water Authority, and Santa Clara Valley Water District. Due to the project influence on other programs and projects, an extended study area is defined to include the service areas of the Central Valley of California and south-of-Delta wildlife refuges.

Reclamation was authorized in Public Law 108–7 (Omnibus Appropriations Act of 2003) and re-affirmed in Public Law 108–361 (2004) to conduct a feasibility-level investigation of the potential expansion of Los Vaqueros Reservoir. Planning studies have focused on identifying water resources problems, needs, and opportunities in the primary study area; developing a set of planning objectives; and formulating alternatives.

If special assistance is required at the public hearings, please contact Ms. Lisa Rainger at 916–978–5090, or via email at [lrainger@usbr.gov](mailto:lrainger@usbr.gov). Please notify Ms. Rainger as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TTY) is available at 800–877–8339.

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.



Dated: May 17, 2017.

**Pablo R. Arroyave,**

*Acting Regional Director, Mid-Pacific Region.*

[FR Doc. 2017-13926 Filed 6-30-17; 8:45 am]

BILLING CODE 4332-90-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1189 (Review)]

### Large Power Transformers From Korea; Institution of a Five-Year Review

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (“the Act”), as amended, to determine whether revocation of the antidumping duty order on large power transformers from Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

**DATES:** Effective July 3, 2017. To be assured of consideration, the deadline for responses is August 2, 2017. Comments on the adequacy of responses may be filed with the Commission by September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), 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 this proceeding may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On August 31, 2012, the Department of Commerce issued an antidumping duty order on imports of large power transformers from Korea (77 FR 53177). The Commission is conducting a review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of

material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission’s Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission’s determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission found a single *Domestic Like Product* consisting of large power transformers coextensive with Commerce’s scope of the investigation.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all domestic producers of large power transformers.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is August 31, 2012.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

**Participation in the proceeding and public service list.**—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission’s rules, no later than 21 days after publication of this notice in

the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission’s designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202-205-3408.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.**—Pursuant to section 207.7(a) of the Commission’s rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification.**—Pursuant to section 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter’s knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be

disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

**Written submissions.**—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 2, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at <https://edis.usitc.gov>, elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget ("OMB") number is not displayed; the OMB number is 3117 0016/USITC No. 17-5-389, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

**Inability to provide requested information.**—Pursuant to section 207.61(c) of the Commission's rules, any

interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

**Information To Be Provided in Response to This Notice of Institution:** As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section

771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in megavolt-amperes ("MVA") and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently

completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in MVA and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in MVA and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total

exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 26, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017-13719 Filed 6-30-17; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-344 (Fourth Review)]

### Tapered Roller Bearings From China; Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 ("the

Act"), as amended, to determine whether revocation of the antidumping duty order on tapered roller bearings from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

**DATES:** Effective July 3, 2017. To be assured of consideration, the deadline for responses is August 2, 2017.

Comments on the adequacy of responses may be filed with the Commission by September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202-205-3193), 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 this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On June 15, 1987, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of tapered roller bearings from China (52 FR 22667). Following first, second, and third five-year reviews by Commerce and the Commission, effective July 11, 2000, September 15, 2006, and August 30, 2012, respectively, Commerce issued continuations of the antidumping duty order on imports of tapered roller bearings from China (65 FR 42665, 71 FR 54469, and 77 FR 52682). The Commission is now conducting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's

determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination concerning tapered roller bearings from China, the Commission found one *Domestic Like Product*: tapered roller bearings and parts thereof—finished or unfinished; flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, and whether or not for automotive use. In its full first, second, and third five-year review determinations, the Commission defined the *Domestic Like Product* as tapered roller bearings coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination concerning tapered roller bearings from China, the Commission found one *Domestic Industry* devoted to the production of the *Domestic Like Product*, as defined above. In its full first, second, and third five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of tapered roller bearings.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the proceeding and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21

days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008).

Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this

proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 2, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at [https://www.usitc.gov/secretary/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget ("OMB") number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–390, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

*Information To Be Provided in Response to This Notice of Institution:* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any

known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales,

internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of

*Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 26, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017-13713 Filed 6-30-17; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-929  
(Enforcement and Rescission Proceeding)]

### Certain Beverage Brewing Capsules, Components Thereof, and Products Containing the Same; Commission Determination Finding No Violation of the Remedial Orders; Determination Not To Rescind the Remedial Orders; Termination of the Consolidated Enforcement and Rescission Proceeding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined that enforcement complainants Adrian Rivera and Adrian Rivera Maynez Enterprises, Inc. (collectively, "ARM") have not shown that respondents Eko Brands, LLC, and Espresso Supply, Inc., violated a limited exclusion order and a cease and desist order (together, "remedial orders"). The Commission has also determined not to rescind the remedial orders. The consolidated enforcement and rescission proceeding is hereby terminated.

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted the original investigation on September 9, 2014, based on a complaint filed by ARM. 79 FR 53445-46 (Sept. 9, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the

sale for importation, and the sale within the United States after importation of certain beverage brewing capsules, components thereof, and products containing the same, by reason of infringement of claims 5-8 and 18-20 of U.S. Patent No. 8,720,320 ("the '320 patent"). *Id.* The notice of institution of the investigation named as respondents Solofill, LLC ("Solofill"); DongGuan Hai Rui Precision Mould Co., Ltd. ("DongGuan"); Eko Brands, LLC ("Eko"); Evermuch Technology Co., Ltd. and Ever Much Company Ltd. (together, "Evermuch"); and several additional respondents that were terminated by reason of consent order or settlement. 79 FR 53445. The Office of Unfair Import Investigations ("OUII") was also named as a party to the investigation. *Id.* The Commission found Eko and Evermuch in default for failure to respond to the complaint and notice of investigation. Notice (May 18, 2015).

On March 17, 2016, the Commission found no violation of section 337 by Solofill and DongGuan because claims 5-7, 18, and 20 of the '320 patent were invalid for a lack of written description and claims 5 and 6 were invalid as anticipated. 81 FR 15742-43 (Mar. 24, 2016). The Commission, however, presumed that the allegations in the complaint were true with respect to the defaulted parties Eko Brands and Evermuch, and thus concluded that they violated section 337 with respect to claims 8 and 19. *Id.* at 15743. The Commission issued a limited exclusion order prohibiting Eko Brands and Evermuch from importing certain beverage brewing capsules, components thereof, and products containing the same that infringed claims 8 or 19 of the '320 patent. *Id.* The Commission also issued cease and desist orders against Eko Brands and Evermuch prohibiting the sale and distribution within the United States of articles that infringe claims 8 or 19. *Id.*

On June 1, 2016, ARM filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate alleged violations of the March 17, 2016, remedial orders by Eko and its purchaser, Espresso Supply, Inc. (collectively, "Eko"). The Commission instituted a formal enforcement proceeding on July 1, 2016. 81 FR 43242-43.

On September 12, 2016, Eko file a second petition requesting the Commission to rescind its remedial orders, and to terminate the enforcement proceeding. On November 25, 2016, the Commission instituted a rescission proceeding, and consolidated

it with the enforcement proceeding. 81 FR 85264–65.

On January 31, 2017, Eko petitioned the Commission to rescind the remedial orders based on a lack of a domestic industry. The Commission denied the petition on June 8, 2017, because Eko failed to show changed circumstances with respect to the domestic industry. Notice of Commission Determination to Deny a Petition Requesting the Rescission of Remedial Orders (June 8, 2017).

On March 27, 2017, the presiding ALJ issued the subject enforcement initial determination (“EID”), which found that the remedial orders cannot be enforced due to a lack of domestic industry, and issued a recommended determination that the remedial orders be rescinded due to an intervening district court summary judgment of noninfringement. OUII petitioned for review of the EID on April 6, 2017, and ARM petitioned for review on April 7, 2017. On April 13, 2017, ARM and Eko filed a response to OUII’s petition, and OUII filed a response to ARM’s petition. On April 14, 2017, Eko filed a response to ARM’s petition. On May 11, 2017, the Commission determined to review the EID.

The Commission has determined that ARM has not shown that Eko violated the remedial orders. The Commission reverses the EID’s finding that the remedial orders cannot be enforced against Eko due to a lack of domestic industry, but finds that ARM has failed to show that Eko had the intent necessary to induce or contribute to the infringement of claims 8 and 19 of the ’320 patent. The Commission has also determined not to rescind the remedial orders. This consolidated enforcement and rescission proceeding is hereby terminated, and a Commission opinion will issue shortly.

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: June 27, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017–13909 Filed 6–30–17; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–442 and 731–TA–1095–1096 (Second Review)]

### Certain Lined Paper School Supplies From China and India; Institution of Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (“the Act”), as amended, to determine whether revocation of the countervailing duty order on certain lined paper school supplies from India and the antidumping duty orders on certain lined paper school supplies from China and India would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

**DATES:** Effective July 3, 2017. To be assured of consideration, the deadline for responses is August 2, 2017. Comments on the adequacy of responses may be filed with the Commission by September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202–205–3193), 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 this proceeding may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On September 28, 2006, the Department of Commerce (“Commerce”) issued a countervailing duty order on certain lined paper school supplies from India and antidumping duty orders on certain lined paper school supplies from China and India (71 FR 56949). On April 14, 2011, Commerce amended in part the antidumping duty order on subject imports from India (76 FR 20954). Following the first five-year reviews by Commerce and the Commission,

effective August 31, 2012, Commerce issued a continuation of the countervailing duty order on imports of certain lined paper school supplies from India and the antidumping duty orders on imports of certain lined paper school supplies from China and India (77 FR 53172). The Commission is now conducting second five-year reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission’s Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission’s determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are China and India.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations and its full first five-year reviews, the Commission found one *Domestic Like Product* consisting of all lined paper products, regardless of dimension.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and full first five-year reviews, the Commission found one *Domestic Industry* consisting of all domestic producers of lined paper products. The Commission also found during the original investigations that circumstances were appropriate to exclude two domestic producers, American Scholar and CPP, from the *Domestic Industry* under the related parties provision. In the full first five-year reviews, the Commission found



that appropriate circumstances did not exist to exclude any of the related party producers from the *Domestic Industry*.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the proceeding and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that

the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 2, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at [https://www.usitc.gov/secretary/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other

parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (“OMB”) number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–392, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

*Information To Be Provided in Response to This Notice of Institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term “firm” includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or



exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in pieces and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of

total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in pieces and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject*

*Merchandise* in any *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in pieces and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above

definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 26, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017-13711 Filed 6-30-17; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-678-679 and 681-682 (Fourth Review)]

### Stainless Steel Bar From Brazil, India, Japan, and Spain; Institution of Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 ("the Act"), as amended, to determine whether revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

**DATES:** Effective July 3, 2017. To be assured of consideration, the deadline for responses is August 2, 2017. Comments on the adequacy of responses may be filed with the Commission by September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202-205-3193), 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 this proceeding may be viewed on the

Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On February 21, 1995, the Department of Commerce issued antidumping duty orders on imports of stainless steel bar from Brazil, India, and Japan (60 FR 9661). On March 2, 1995, the Department of Commerce issued an antidumping duty order on imports of stainless steel bar from Spain (60 FR 11656). Following first five-year reviews by Commerce and the Commission, effective April 18, 2001, Commerce issued a continuation of the antidumping duty orders on imports of stainless steel bar from Brazil, India, Japan, and Spain (66 FR 19919). Following second five-year reviews by Commerce and the Commission, effective January 23, 2007, Commerce issued a continuation of the antidumping duty orders on imports of stainless steel bar from Brazil, India, Japan, and Spain (72 FR 2858). Following the third five-year reviews by Commerce and the Commission, effective August 9, 2012, Commerce issued a continuation of the antidumping duty orders on imports of stainless steel bar from Brazil, India, Japan, and Spain (77 FR 47595). The Commission is now conducting fourth five-year reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in expedited reviews will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Brazil, India, Japan, and Spain.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in

characteristics and uses with, the *Subject Merchandise*. In its original determinations, its full first and second five-year review determinations, and its expedited third five-year review determinations, the Commission defined the *Domestic Like Product* as all stainless steel bar coextensive with Commerce's scope. One Commissioner defined the *Domestic Like Product* differently in the original determinations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, its full first and second five-year review determinations, and its expedited third five-year review determinations, the Commission defined the *Domestic Industry* as domestic producers of stainless steel bar. One Commissioner defined the *Domestic Industry* differently in the original determinations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

**Participation in the proceeding and public service list.**—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment

statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202-205-3408.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification.**—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

**Written submissions.**—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 2, 2017. Pursuant to section 207.62(b) of the

Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full reviews. The deadline for filing such comments is September 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at [https://www.usitc.gov/secretary/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget ("OMB") number is not displayed; the OMB number is 3117 0016/USITC No. 17-5-391, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

**Inability to provide requested information.**—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

**Information To Be Provided in Response to This Notice of Institution:** If

you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2010.

(7) A list of 3-5 leading purchasers in the U.S. market for the *Domestic Like*

*Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on

an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in

each *Subject Country* after 2010, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 26, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017-13712 Filed 6-30-17; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1378-1379 (Preliminary)]

### Low Melt Polyester Staple Fiber (PSF) From Korea and Taiwan; Institution of Antidumping Duty Investigations and Scheduling of Preliminary Phase Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty investigation Nos. 731-TA-1378-1379 (Preliminary) pursuant to the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially

injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of low melt polyester staple fiber (PSF) from Korea and Taiwan, provided for in subheading 5503.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by August 11, 2017. The Commission's views must be transmitted to Commerce within five business days thereafter, or by August 18, 2017.

**DATES:** Effective June 27, 2017.

**FOR FURTHER INFORMATION CONTACT:** Porscha Stiger(202-205-3241), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed on June 27, 2017, by Nan Ya Plastics Corporation, America, Livingston, New Jersey.

For further information concerning the conduct of these investigations 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 and B (19 CFR part 207).

*Participation in the investigation and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level)

representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Tuesday, July 18, 2017, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to [William.bishop@usitc.gov](mailto:William.bishop@usitc.gov) and [Sharon.bellamy@usitc.gov](mailto:Sharon.bellamy@usitc.gov) (DO NOT FILE ON EDIS) on or before Friday, July 14, 2017. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 21, 2017, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the

Commission's Web site at [https://www.usitc.gov/secretary/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 27, 2017.

**Lisa R. Barton,**  
Secretary to the Commission.

[FR Doc. 2017-13910 Filed 6-30-17; 8:45 am]

**BILLING CODE 7020-02-P**

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## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

**AGENCY:** Advisory Committee on Rules of Bankruptcy Procedure, Judicial Conference of the United States.

**ACTION:** Notice of Open Meeting.

**SUMMARY:** The Advisory Committee on Rules of Bankruptcy Procedure will hold a meeting on September 26, 2017. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: <http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books>.

**DATES:** The meeting will take place on September 26, 2017, from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** Thurgood Marshall Federal Judiciary Building, Meacham Conference Center, Administrative Office of the United States Courts, One Columbus Circle NE., Washington, DC 20544.

**FOR FURTHER INFORMATION CONTACT:** Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502-1820.

Dated: June 28, 2017.

**Rebecca A. Womeldorf,**

*Rules Committee Secretary.*

[FR Doc. 2017-13921 Filed 6-30-17; 8:45 am]

**BILLING CODE 2210-55-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On June 26, 2017, a proposed Consent Decree was lodged with the United States District Court for the District of Colorado in the lawsuit entitled *United States and State of Colorado v. Rocky Mountain Company, LLC*, Civil Action No. 1:17-cv-01554.

The United States filed this lawsuit against Rocky Mountain Bottle Company, LLC ("RMBC") alleging violations of the Non-attainment New Source Review provisions of the Clean Air Act, 42 U.S.C. 7501-7515, among other provisions. The Complaint contends that RMBC modified the furnaces at its facility in Jefferson County, Colorado, without installing required pollution controls. The proposed Consent Decree requires RMBC to pay a civil penalty of \$475,000 and undertake significant injunctive relief.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Colorado v. Rocky Mountain Company*, D.J. Ref. No. 90-5-2-1-10146. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail in the following manner:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Stipulation of Settlement and Order may be examined and downloaded at this Justice Department Web site: [https://www.justice.gov/enrd/Consent\\_Decrees](https://www.justice.gov/enrd/Consent_Decrees). We will provide a paper copy upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree

Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$17.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Robert Brook,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2017-13855 Filed 6-30-17; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Alien Employment Certification

**ACTION:** Notice.

**SUMMARY:** On June 30, 2017, the Department of Labor (DOL) will submit the Employment & Training Administration (ETA) sponsored information collection request (ICR) titled, "Application for Alien Employment Certification," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before August 2, 2017.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201706-1205-003](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1205-003) (this link will only become active on July 1, 2017) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). Commenters are encouraged, but not required, to send a courtesy copy of any

comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N-1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

#### FOR FURTHER INFORMATION CONTACT:

Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Application for Alien Employment Certification information collection that helps the ETA to meet its statutory responsibilities for program administration, management, and oversight under the Immigration and Naturalization Act (INA). INA section 212(a)(5)(A)(iii) deals specifically with professional athletes coming to the U.S.A. on a permanent basis as immigrants, and Form ETA-750, part A is used to collect information that permits the DOL to meet Federal responsibilities for such entry. Form ETA-750, part B provides detailed information about an alien's education and work history and is used by the DOL to collect information about the professional athlete on whose behalf an application for permanent labor certification is filed. The Department of Homeland Security also uses part B for foreign workers applying for the National Interest Waiver of the job offer requirement under INA section 203(b)(2)(B)(i). INA sections 212, 214, and 218 authorize this information collection. See 8 U.S.C. 1184(c), 1188, 1182(5)(A).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205-0015.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2017. The DOL seeks to extend

PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 24, 2017 (82 FR 18929).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0015. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL-ETA.

*Title of Collection:* Application for Alien Employment Certification.

*OMB Control Number:* 1205-0015.

*Affected Public:* Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 6,695.

*Total Estimated Number of Responses:* 6,695.

*Total Estimated Annual Time Burden:* 12,103 hours.

*Total Estimated Annual Other Costs Burden:* \$0.

Dated: June 27, 2017.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2017-13846 Filed 6-30-17; 8:45 am]

**BILLING CODE 4510-FF-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Ethylene Oxide Standard

**ACTION:** Notice.

**SUMMARY:** On June 30, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Ethylene Oxide Standard" to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before August 2, 2017.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201706-1218-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1218-001) (this link will only become active on July 1, 2017) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the

Ethylene Oxide Standard information collection requirements codified in regulations 29 CFR 1910.1047. The principal information collection requirements in the Standard include conducting worker exposure monitoring, notifying workers of the exposure, implementing a written compliance program, and implementing medical surveillance of workers. In addition, the examining physician must provide specific information to ensure that workers receive a copy of their medical examination results. The employer must maintain exposure-monitoring and medical records for specific periods and provide access to these records to OSHA and National Institute for Occupational Safety and Health representatives, the affected workers and their authorized representatives, and other designated parties. Occupational Safety and Health Act sections 2(b)(9), 6, and 8(c) authorize this information collection. See 29 U.S.C. 651, 655, 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218-0108.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 5, 2017 (82 FR 16629).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments



should mention OMB Control Number 1218–0108. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL–OSHA.

*Title of Collection:* Ethylene Oxide Standard.

*OMB Control Number:* 1218–0108.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 1,869.

*Total Estimated Number of Responses:* 100,952.

*Total Estimated Annual Time Burden:* 27,880 hours.

*Total Estimated Annual Other Costs Burden:* \$4,250,388.

Dated: June 27, 2017.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2017–13868 Filed 6–30–17; 8:45 am]

**BILLING CODE 4510–26–P**

## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **Institute of Museum and Library Services**

#### **Submission for OMB Review, Comment Request, Proposed Collection: Digital Inclusion Corps Pilot Project Evaluation**

**AGENCY:** Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

**ACTION:** Submission for OMB Review, Comment request.

**SUMMARY:** The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for

review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 27, 2017.

**ADDRESSES:** Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

**FOR FURTHER INFORMATION CONTACT:** Robin Dale, Acting Deputy Director, Library Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024–2135. Ms. Dale can be reached by Telephone: 202–653–4650, Fax: 202–653–4603, or by email at *rdale@imls.gov*, or by teletype (TTY/TDD) at 202–653–4614.

**SUPPLEMENTARY INFORMATION:** The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 35,000 museums. The Institute's mission is to inspire libraries and museums to advance innovation, learning, and civic engagement. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development. IMLS is responsible for identifying national needs for and trends in museum, library, and information services; measuring and reporting on the impact and effectiveness of museum, library and information services throughout the United States, including programs conducted with funds made available by IMLS; identifying, and disseminating information on the best practices of such programs; and developing plans to improve museum, library, and information services of the United States and strengthen national, State, local, regional, and international communications and cooperative networks (20 U.S.C. 72, 20 U.S.C. 9108).

The purpose of this Notice is to solicit comments concerning the evaluation

instrument for the Digital Inclusion Corps Pilot Project, a project under a cooperative agreement between IMLS and The PAST Foundation.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

*Current Actions:* This notice proposes clearance of the Digital Inclusion Corps Pilot Project Evaluation. The 60-day notice for the Digital Inclusion Corps Pilot Project Evaluation was published in the **Federal Register** on February 13, 2017 (FR vol. 82, No. 2, pgs. 887–888). No comments were received under this notice.

*Agency:* Institute of Museum and Library Services.

*Agency:* Institute of Museum and Library Services.

*Title:* Digital Inclusion Corps Pilot Project Evaluation.

*OMB Number:* TBD.

*Agency Number:* 3137.

*Frequency:* One time.

*Affected Public:* State library agencies, libraries, museums, museum organizations, community support organizations.

*Number of Respondents:* 30.

*Estimated Time per Respondent:* .5–1 hours.

*Total Burden Hours:* 17.5.

*Total Annualized Cost to Respondents:* \$ 508.72.

*Total Annualized Capital/Startup Costs:* 0.

*Total Annualized Cost to Federal Government:* \$32,798.40.

Dated: June 27, 2017.

**Kim A. Miller,**

*Grants Management Specialist, Office of the Chief Financial Officer.*

[FR Doc. 2017–13864 Filed 6–30–17; 8:45 am]

**BILLING CODE 7036–01–P**

**NATIONAL MEDIATION BOARD****Notice of Proposed Information Collection Requests**

**AGENCY:** National Mediation Board.

**ACTION:** Notice.

**SUMMARY:** The National Mediation Board (NMB) invites comments on its proposal to the information collection request as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before August 2, 2017.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Office of Administration, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection contains the following: (1) Type of review requested, *e.g.*, new, revision extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Record keeping burden. OMB invites public comment.

Currently, the NMB is soliciting comments concerning the Application for Investigation of Representation Dispute and is interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 27, 2017.

**Samantha T. Jones,**

*Assistant Chief of Staff, Administration,  
National Mediation Board.*

Application for Investigation of Representation Dispute

Type of Review: Revision

Title: Application for Investigation of

Representation Dispute,

OMB Number: 3140-0001

Frequency: On occasion

Affected Public: Carrier and Union Officials, and employees of railroads and airlines

Reporting and Recordkeeping Hour

Burden:

Responses: 68 annually

Burden Hours: 17.00

1. Abstract: When a dispute arises among a carrier's employees as to who will be their bargaining representative, the National Mediation Board (NMB) is required by Section 2, Ninth, to investigate the dispute, to determine who is the authorized representative, if any, and to certify such representative. The NMB's duties do not arise until its services have been invoked by a party to the dispute. The Railway Labor Act is silent as to how the invocation of a representation dispute is to be accomplished and the NMB has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 C.F.R. § 1203.2, provides that applications for the services of the NMB under Section 2, Ninth, to investigate representation disputes may be made on printed forms secured from the NMB's Office of Legal Affairs or on the Internet at <http://www.nmb.gov/representation/rapplly.html>. The application requires the following information: the name of the carrier involved; the name or description of the craft or class involved; the name of the petitioning organization or individual; the name of the organization currently representing the employees, if any; the names of any other organizations or representatives involved in the dispute; and the estimated number of employees in the craft or class involved. This basic information is essential in providing the NMB with the details of the dispute so that it can determine what resources will be required to conduct an investigation.

2. The application form provides necessary information to the NMB so that it can determine the amount of staff and resources required to conduct an investigation and fulfill its statutory responsibilities. Without this information, the NMB would have to delay the commencement of the investigation, which is contrary to the intent of the Railway Labor Act.

3. There is no improved technological method for obtaining this information. The burden on the parties is minimal in completing the "Application for Investigation of Representation Dispute."

4. There is no duplication in obtaining this information.

5. Rarely are representation elections conducted for small businesses. Carriers/employers are not permitted to request our services regarding representation investigations. The labor organizations, which are the typical requesters, are national in scope and would not qualify as small businesses. Even in situations where the invocation comes from a small labor organization, we believe the burden in completing the application form is minimal and that no reduction in burden could be made.

6. The NMB is required by Section 2, Ninth, to investigate the dispute, to determine who is the authorized representative, if any, and to certify such representative. The NMB has no ability to control the frequency, technical, or legal obstacles, which would reduce the burden.

7. The information requested by the NMB is consistent with the general information collection guidelines of CFR 1320.6. The NMB has no ability to control the data provided or timing of the invocation. The burden on the parties is minimal in completing the "Application for Investigation of Representation Dispute."

8. No payments or gifts have been provided by the NMB to any respondents of the form.

9. There are no questions of a sensitive nature on the form.

10. The total time burden on respondents is 17.00 hours annually—this is the time required to collect information. After consulting with a sample of people involved with the collection of this information, the time to complete this information collection is estimated to average 15 minutes per response, including gathering the data needed and completion and review of the information.

Number of respondents per year 68  
Estimated time per respondent 15 minutes

Total Burden hours per year 17  
(68 × .25)

11. The total collection and mail cost burden on respondents is estimated at \$615.40 annually (\$582.08 time cost burden + \$33.32 mail cost burden.)

a. The respondents will not incur any capital costs or start up costs for this collection.

b. Cost burden on respondents—detail:

The total time burden annual cost is \$582.08  
 Time Burden Basis: The total hourly burden per year, upon respondents, is 17

Staff cost = \$582.08

\$34.24 per hour – based on mid level clerical salary

\$34.24 × 17 hours per year = \$582.08

We are estimating that a mid-level clerical person, with an average salary of \$34.24 per hour, will be completing the “Application for Investigation of Representation Dispute” form. The total burden is estimated at 17 hours, therefore, the total time burden cost is estimated at \$582.08 per year.

The total annual mailing cost to respondents is \$33.32

Number of applications mailed by

Respondents per year 68

Total estimated cost \$33.32  
 (68 × .49 stamp)

The collection of this information is not mandatory; it is a voluntary request from airline and railroad carrier employees seeking to invoke an investigation of a representation dispute. After consulting with a sample of people involved with the collection of this information, the time to complete this information collection is estimated to average 15 minutes per response, including gathering the data needed and completion and review of the information. However, the estimated hour burden costs of the respondents may vary due to the complexity of the specific question in dispute. The revision of the form requiring a new application for every craft or class will have little effect on the number of application submitted. In 2012 and 2013, no applications were filed that included a request for representation services for more than one craft or class.

The application form is available from the NMB’s Office of Legal Affairs and is also available on the Internet at <http://www.nmb.gov/representation/rapply.html>

12. The total annualized Federal cost is \$889.49. This includes the costs of printing and mailing the forms upon request of the parties. The completed applications are maintained by the Office of Legal Affairs.

a. Printing cost \$80.00

b. Mailing costs \$10.02

Basis (mail cost): Forms are requested approximately 3 times per year and it takes 5 minutes to prepare the form for mail

Postage cost = \$1.47

3 (times per year) × .49 (cost of postage)

Staff cost = \$8.55

\$.57 per minute (GS 9/10 \$71,467 = \$34.24 per hr. ÷ 60)

\$.57 × 5 minutes per mailing = \$2.85

\$2.85 × 3 times per year = \$8.55

Total Mailing Costs = \$10.02

c. Processing Cost = \$798.00

Basis (processing cost):

Representation is requested approximately 70 times per year and it takes 20 minutes to process each application

Staff Cost = \$798.00

\$.57 per minute (GS 9/10 \$71,467 = \$34.24 per hr. ÷ 60)

\$.57 × 20 minutes per mailing = \$11.40

\$11.40 × 70 times per year = \$798.00

13. Item 13—no change in annual reporting and recordkeeping hour burden.

14. The information collected by the application will not be published.

15. The NMB will display the OMB expiration date on the form.

16(a)—the form does not reduce the burden on small entities; however, the burden is minimized and voluntary.

16(b)—the form does not indicate the retention period for record keeping requirements.

16(c)—the form is not part of a statistical survey.

Requests for copies of the proposed information collection request may be accessed from [www.nmb.gov](http://www.nmb.gov) or should be addressed to Denise Murdock, NMB, 1301 K Street NW., Suite 250 E, Washington, DC 20005 or addressed to the email address [murdock@nmb.gov](mailto:murdock@nmb.gov) or faxed to 202–692–5081. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, as well as comments on any legal and substantive issues raised, should be directed to Samantha Williams at 202–692–5010 or via internet address [williams@nmb.gov](mailto:williams@nmb.gov). Individuals who use a telecommunications device for the deaf (TDD/TDY) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2017–13865 Filed 6–30–17; 8:45 am]

BILLING CODE 7550–01–P

## NUCLEAR REGULATORY COMMISSION

[NRC–2017–0154]

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

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; request for comment and public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS) to supplement the staff’s endorsement of the Electric Power Research Institute (EPRI)/Nuclear Energy Institute (NEI) Joint Task Force report entitled, “Guideline on Licensing Digital Upgrades: EPRI TR–102348, Revision 1, NEI 01–01: A Revision of EPRI TR–102348 To Reflect Changes to the 10 CFR 50.59 Rule,” (hereinafter referred to as NEI 01–01.) in RIS 2002–22.

**DATES:** Submit comments by August 2, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2017–0154. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Cindy Bladley, Office of Administration, Mail Stop: TWFN–8 D 36M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

**FOR FURTHER INFORMATION CONTACT:** Brian Harris, Office of Nuclear Reactor Regulation (NRR), telephone: 301–415–2277, email: [Brian.Harris@nrc.gov](mailto:Brian.Harris@nrc.gov) or Jason Drake, NRR, telephone: 301–415–8378, email: [Jason.Drake@nrc.gov](mailto:Jason.Drake@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

## SUPPLEMENTARY INFORMATION:

### I. Obtaining Information and Submitting Comments.

#### A. Obtaining Information

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

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2017–0154.
- *NRC’s Agencywide Documents Access and Management System*

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The draft RIS, "NRC Draft Regulatory Issue Summary 2017-XX Supplement to RIS 2002-22," is available in ADAMS under Accession No. ML17102B507.

- *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC-2017-0154 in your comment submission.

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

The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

## II. Background

The RIS is intended for all holders of and applicants for power reactor operating licenses or construction permits under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel and all holders of, and applicants for, a power reactor combined license, standard design approval, or manufacturing license, and all applicants for a standard design certification, under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

This RIS is intended to clarify the endorsed NEI 01-01 guidance regarding licensee upgrades to digital instrumentation and control systems. Specifically, this RIS clarifies the guidance in NEI 01-01 pertaining to the performance and documentation of adequate technical evaluations and adequately documented qualitative assessments to meet the requirements of 10 CFR 50.59 "Changes, tests and experiments." The attachment to this RIS provides a framework for preparing and documenting qualitative assessments considered acceptable to serve as a technical basis supporting the responses to key 10 CFR 50.59(c)(2) evaluations.

The NRC issues RISs to communicate with stakeholders on a broad range of matters. This may include communicating and clarifying NRC technical or policy positions on regulatory matters that have not been communicated to or are not broadly understood by the nuclear industry.

### Proposed Action

The NRC is requesting public comments on the draft RIS. The NRC plans to hold a public meeting to discuss this RIS and the issues associated with clarification of the applicability of the endorsed NEI 01-01 guidance. All comments that are to receive consideration in the final RIS must still be submitted electronically or in writing as indicated in the **ADDRESSES** section of this document. Additional details regarding the meeting will be posted at least 10 days prior to the public meeting on the NRC's Public Meeting Schedule Web site at <http://www.nrc.gov/public-involve/public-meetings/index.cfm>. The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated at Rockville, Maryland, this 28th day of June 2017.

For the Nuclear Regulatory Commission.

**Alexander D. Garmoe,**

*Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2017-13918 Filed 6-30-17; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81035; File No. SR-FINRA-2017-019]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

June 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 14, 2017, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to July 18, 2018 the implementation of FINRA Rule 4240. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps that are security-based swaps.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B,

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,<sup>4</sup> which implements an interim pilot program (the "Interim Pilot Program") with respect to margin requirements for certain transactions in credit default swaps ("CDS").<sup>5</sup> On June 15, 2016, FINRA filed a proposed rule change for immediate effectiveness extending the implementation of FINRA Rule 4240 to July 18, 2017.<sup>6</sup>

As explained in the Approval Order, FINRA Rule 4240, coterminous with certain Commission actions, was intended to address concerns arising from systemic risk posed by CDS, including, among other things, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.<sup>7</sup> On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") was signed into law.<sup>8</sup> Title VII of the Dodd-Frank Act established a comprehensive new regulatory framework for swaps and security-based swaps,<sup>9</sup> including certain CDS. The legislation was intended, among other

things, to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

The Commission and the CFTC have proposed or adopted rules with respect to swaps and security-based swaps pursuant to Title VII of the Dodd-Frank Act.<sup>10</sup> FINRA believes it is appropriate to extend the Interim Pilot Program for a limited period, to July 18, 2018, in light of the continuing development of the CDS business and ongoing regulatory developments. FINRA is considering proposing additional amendments to the Interim Pilot Program.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be July 18, 2017. The proposed rule change will expire on July 18, 2018.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the Act because, in light of the continuing development of the CDS business and ongoing regulatory developments, extending the implementation of the margin requirements as set forth by FINRA Rule

4240 will help to stabilize the financial markets.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that extending the implementation of FINRA Rule 4240 for a limited period, to July 18, 2018, in light of the continuing development of the CDS business and ongoing regulatory developments, helps to promote stability in the financial markets and regulatory certainty for members.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>4</sup> See Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Order Approving File No. SR-FINRA-2009-012) ("Approval Order").

<sup>5</sup> In March 2012, the SEC approved amendments to FINRA Rule 4240 that, among other things, limit at this time the rule's application to credit default swaps that are security-based swaps. See Securities Exchange Act Release No. 66527 (March 7, 2012), 77 FR 14850 (March 13, 2012) (Order Approving File No. SR-FINRA-2012-015).

<sup>6</sup> See Securities Exchange Act Release No. 78182 (June 28, 2016), 81 FR 43690 (July 5, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-020).

<sup>7</sup> See Approval Order, 74 FR at 25588-89.

<sup>8</sup> See Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

<sup>9</sup> The terms "swap" and "security-based swap" are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commodity Futures Trading Commission ("CFTC") and the Commission jointly have approved rules to further define these terms. See Securities Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48208 (August 13, 2012) (Joint Final Rule; Interpretations; Request for Comment on an Interpretation: Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping). See also Securities Exchange Act Release No. 66868 (April 27, 2012), 77 FR 30596 (May 23, 2012) (Joint Final Rule; Joint Interim Final Rule; Interpretations: Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant" and "Eligible Contract Participant").

<sup>10</sup> See, e.g., Securities Exchange Act Release No. 79833 (January 18, 2017), 82 FR 8467 (January 25, 2017) (Order Extending Certain Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Revision of the Definition of "Security" To Encompass Security-Based Swaps and Request for Comment); Securities Exchange Act Release No. 67177 (June 11, 2012), 77 FR 35625 (June 14, 2012) (Notice of Statement of General Policy with Request for Public Comment: Statement of General Policy on the Sequencing of the Compliance Dates for Final Rules Applicable to Security-Based Swaps Adopted Pursuant to the Securities Exchange Act of 1934 and the Dodd-Frank Wall Street Reform and Consumer Protection Act); Securities Exchange Act Release No. 68071 (October 18, 2012), 77 FR 70214 (November 23, 2012) (Proposed Rule: Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers). See also Securities Exchange Act Release No. 71958 (April 17, 2014), 79 FR 25194 (May 2, 2014) (Proposed Rule: Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers).

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2017-019 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2017-019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2017-019 and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017-13903 Filed 6-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81032; File No. SR-BatsBZX-2017-43]

**Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Logical Ports on the Bats Equity Options Platform**

June 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 16, 2017 Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend its fees and rebates applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.batstrading.com](http://www.batstrading.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify the fee schedule applicable to the Exchange's options platform ("BZX Options") to amend the fees for logical ports. A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to operate a specific application, such as FIX order entry or PITCH data receipt. The Exchange's Multicast PITCH data feed is available from two primary feeds, identified as the "A feed" and the "C feed", which contain the same information but differ only in the way such feeds are received. The Exchange also offers two redundant feeds, identified as the "B feed" and the "D feed." The Exchange also offers a bulk-quoting interface which allows Users<sup>6</sup> of BZX Options to submit and update multiple bids and offers in one message through logical ports enabled for bulk-quoting.<sup>7</sup> The bulk-quoting application for BZX Options is a particularly useful feature for Users that provide quotations in many different options. Logical port fees are limited to logical ports in the Exchange's primary data center and no logical port fees are assessed for redundant secondary data center ports. The Exchange assesses the monthly per logical port fees for all of a Member and non-Member logical ports.

The Exchange currently charges for logical ports (including Multicast PITCH Spin Server and GRP ports) a fee \$650 per port per month. The Exchange now proposes to amend the fees for logical ports, Multicast PITCH Spin Server Ports for a set of primary ports (A or C feed), and GRP Ports for a set of primary ports (A or C feed) to \$750 per month.<sup>8</sup>

<sup>6</sup> A User on BZX Options is either a member of BZX Options or a sponsored participant who is authorized to obtain access to the Exchange's system pursuant to BZX Rule 11.3. See Exchange Rule 16.1(a)(63).

<sup>7</sup> See Securities Exchange Act Release Nos. 65133 (August 15, 2011), 76 FR 52032 (August 19, 2011) (SR-BATS-2011-029) and 65307 (September 9, 2011), 76 FR 57092 (September 15, 2011) (SR-BATS-2011-034).

<sup>8</sup> The Exchange does not propose to amend the monthly fee for purge ports.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> A Member is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

The Exchange will continue to offer for free the ports necessary to receive the Exchange's redundant Multicast "B feed" and "D feed", as well as all ports made available in the Exchange's secondary data center.

The Exchange also proposes to amend the monthly fee for ports with bulk quoting capabilities. The Exchange currently charges \$1,500 per month for the User's first five logical ports with bulk quoting capabilities. Each logical port with bulk quoting capabilities in excess of five logical ports is subject to a fee of \$2,000 per month. The Exchange will continue to charge \$1,500 per month for the User's first and second logical ports. However, any logical port with bulk quoting capabilities in excess of two logical ports would be subject to a fee of \$2,500 per month.

#### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on July 3, 2017.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>9</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange operates in a highly competitive market in which exchanges offer connectivity services as a means of facilitating the trading activities of Members and other participants.

Accordingly, fees charged for connectivity are constrained by the active competition for the order flow of such participants as well as demand for market data from the Exchange. If a particular exchange charges excessive fees for connectivity, affected members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, the exchange charging excessive fees would stand to lose not only connectivity revenues but also

revenues associated with the execution of orders routed to it by affected members, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that the proposed fees for logical ports are equitably allocated, reasonable, and not unfairly discriminatory in that the proposed fees will help the Exchange to cover increasing infrastructure costs associated with offering and maintaining logical ports connections. The Exchange also notes its proposed fees are only modestly higher than those currently charged by the Nasdaq Stock Market LLC ("Nasdaq").<sup>11</sup> In addition, the Exchange believes that the proposed fees for logical ports with bulk quoting capabilities are also equitably allocated, reasonable, and not unfairly discriminatory. The proposal will help the Exchange to cover increasing infrastructure costs associated with offering and continuing to offer bulk-quoting capabilities to BZX Options Users. The Exchange notes that the use of such ports is optional and that market participants can continue to access BZX Options through other logical ports for \$750 per month. At the same time, the Exchange believes that its fees for bulk-quoting ports are reasonable, given the benefits and added efficiencies Users of BZX Options realize through such ports. The Exchange notes that charging different fees based on the number of ports a User subscribes to is designed to encourage Users to become more efficient, and reduce the number of ports used, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure.

Lastly, the Exchange also believes that the proposed amendments to its fee schedule are non-discriminatory because they will apply uniformly to all Members. All Members that voluntarily select various service options will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its fee schedule would

not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors.

Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The Exchange also does not believe the proposed rule change would impact intramarket competition as it would apply to all Members and non-Members equally.

#### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>13</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> See Nasdaq Options Pricing, Chapter XV, Section 3(b) (charging a monthly fee of \$650 order entry ports).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).



*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsBZX-2017-43 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BatsBZX-2017-43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsBZX-2017-43 and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-13901 Filed 6-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81031; File No. SR-ICEEU-2017-006]

**Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Changes Relating to the CDS End-of-Day Price Discovery Policy and Price Submission Disciplinary Framework**

June 27, 2017.

**I. Introduction**

On April 26, 2017, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change (SR-ICEEU-2017-006) to amend ICE Clear Europe's End-of-Day Price Discovery Policy ("EOD Price Discovery Policy") (1) to change the calculation of firm trade notional limits with respect to single-name credit default swap ("CDS") contracts; (2) to update references to ICE Clear Europe's Clearing Risk Department, head of clearing risk, and other relevant risk personnel, and to add references to ICE Clear Europe's risk appetite, related risk metrics, and model validation and review policies; and (3) to amend ICE Clear Europe's Price Submission Disciplinary Framework with respect to the imposition of fines associated with missed price submissions. The proposed rule change was published for comment in the **Federal Register** on May 15, 2017.<sup>3</sup> The Commission received no comment letters regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

**II. Description of Proposed Rule Change**

ICE Clear Europe proposed changes to its EOD Price Discovery Policy with respect to the calculation of firm trade notional limits for single-name CDS. Under its current EOD Price Discovery Policy, ICE Clear Europe requires CDS Clearing Members<sup>4</sup> to submit end-of-day prices with respect to instruments relating to a Clearing Member's open interest. Based on these Clearing Member price submissions, ICE Clear Europe calculates CDS end-of-day price

levels.<sup>5</sup> As a mechanism for ensuring that Clearing Members provide high-quality submissions, ICE Clear Europe selects a subset of CDS instruments, on random days, to be eligible for required firm trades between Clearing Members. Where Clearing Members are identified for the purposes of a firm trade pursuant to ICE Clear Europe's "cross and lock algorithm" based on their price submissions, ICE Clear Europe may require such Clearing Members to enter into firm trades with each other.<sup>6</sup>

In connection with the firm trade obligation, ICE Clear Europe has established pre-defined maximum notional amounts for firm trades in single-name CDS contracts ("firm trade notional limits"), which are currently set at the Clearing Member level.<sup>7</sup> ICE Clear Europe proposed to amend the manner in which it applies the firm trade notional limits so that such limits apply on a group level to affiliated Clearing Members, or "CP affiliate group" level, rather than at the individual Clearing Member level. A CP affiliate group consists of all CDS Clearing Members that own, are owned, or are under common ownership with other CDS Clearing Members.<sup>8</sup>

ICE Clear Europe believes that such an approach is appropriate because an affiliate group may have multiple CDS Clearing Members, which, in the absence of the proposed amendments, could result in a group-wide limit being multiples of the single entity notional limit.<sup>9</sup>

In addition to the changes to the firm trade notional limits, ICE Clear Europe also proposed changes to the EOD Price Discovery Policy to update references to ICE Clear Europe's Clearing Risk department and Head of Clearing Risk, as well as to certain other risk personnel.<sup>10</sup>

Other proposed changes to the EOD Price Discovery Policy include adding background information regarding standards relating to ICE Clear Europe's risk appetite, and related metrics and limits. Additionally, ICE Clear Europe proposed to amend the EOD Price Discovery Policy to include additional procedures relating to model validation and policy review. Under these amendments, the underlying models used to support the EOD Price Discovery Policy will be subject to an annual independent validation, and, pursuant to its terms of reference, the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 34-80631 (May 9, 2017), 82 FR 22357 (May 15, 2017) (SR-ICEEU-2017-006) ("Notice").

<sup>4</sup> Capitalized terms used in this order, but not defined herein, have the same meaning as in the ICE Clear Europe Clearing Rules.

<sup>5</sup> Notice, 82 FR at 22358.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>14</sup> 17 CFR 200.30-3(a)(12).

ICE Clear Europe CDS Risk Committee will review the EOD Price Discovery Policy at least annually before such Policy is submitted to the ICE Clear Europe Board for its approval.<sup>11</sup> In addition to the annual review process, any material changes to the EOD Price Discovery Policy require ICE Clear Europe Board approval, on the advice of the CDS Risk Committee and Board Risk Committee, prior to implementation of such changes.<sup>12</sup> The proposed amendments also set forth various metrics to be used by the Clearing Risk Department and Risk Oversight department, as well as escalation and Risk Committee and Board notification protocols related to those metrics.<sup>13</sup>

Beyond amendments to its EOD Price Discovery Policy, ICE Clear Europe also proposed to amend its Price Submission Disciplinary Framework with respect to the provisions regarding the imposition of fines, known as fixed cash assessments, in instances where members do not submit required prices. Under the proposed amendments to the Price Submission Disciplinary Framework, at the end of each calendar month ICE Clear Europe will collect the details of alleged Clearing Member missed price submissions. Once these details are obtained, ICE Clear Europe will issue a Notice of Investigation pursuant to Rule 1002 of its CDS Clearing Rulebook to the relevant Clearing Member setting forth the details of the missed price submission. ICE Clear Europe would then perform its investigation, and within five days of sending the Notice of Investigation, provide the Clearing Member with a Letter of Mindedness, which sets forth ICE Clear Europe's preliminary factual conclusions and proposed cash assessment. Thereafter, ICE Clear Europe would provide the Clearing Member ten days from the date of the Letter of Mindedness to inform ICE Clear Europe of any factual errors or objections. After this ten-day period, ICE Clear Europe would finalize its findings and course of action.<sup>14</sup>

Furthermore, under the proposed amendments ICE Clear Europe's Price Submission Disciplinary Framework would provide that, if a Clearing Member is able to demonstrate that (i) the alleged missed price submissions are the first instance(s) of a missed submission with respect to a specific instrument in that month; (ii) provide an adequate explanation for the missed price submissions; and (iii) offer a

remedial plan to prevent future missed submissions, ICE Clear Europe may determine to take no action. However, if another missed price submission for the same type of instrument occurs within ninety days of the first missed price submission then, under the proposed amendments, the Clearing Member will be subject to a cash assessment for both the first and subsequent missed price submissions. Additionally, ICE Clear Europe's head of clearing compliance would have the ability to determine that a Clearing Member should not be subject to a cash assessment if a Clearing Member is able to demonstrate that an alleged missed submission occurred due to extraordinary circumstances outside of the Clearing Member's control.<sup>15</sup> ICE Clear Europe did not propose to amend the established levels for cash assessments.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>16</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F)<sup>17</sup> of the Act requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest. Section 17A(b)(3)(D)<sup>18</sup> of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable fees, dues, and other charges among its participants. Section 17A(b)(3)(G) of the Act<sup>19</sup> requires that the rules of a clearing agency provide that its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency by expulsion, suspension, limitation of activities, functions, and operations, fines, censure, or any other fitting sanction. Section 17A(b)(5)(A) of the Act<sup>20</sup> requires, in relevant part, that in any

proceeding by a registered clearing agency to determine whether a participant should be disciplined, the clearing agency shall bring specific charges, notify such participant thereof, and give him an opportunity to defend against such charges, and keep a record. Section 17A(b)(5)(A) further requires that a determination by the clearing agency to impose a disciplinary sanction shall be supported by a statement setting forth (i) any act or practice in which such participant has been found to have engaged or to have omitted; (ii) the specific provisions of the rules of the clearing agency which any such practice or omission to act is deemed to violate; and (iii) the sanction imposed and the reasons therefore. Rule 17Ad-22(e)(3)(i)<sup>21</sup> requires covered clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to include risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually. Rule 17Ad-22(e)(6)(vii)<sup>22</sup> requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to require a model validation for the covered clearing agency's margin system and related models to be performed not less than annually, or more frequently as may be contemplated by the covered clearing agency's risk management framework.

The Commission finds that the proposed rule change, which amends ICE Clear Europe's EOD Price Discovery Policy and Price Submission Disciplinary Framework, is consistent with relevant provisions of Section 17A of the Act and the applicable provisions of Rule 17Ad-22 thereunder.

With respect to the changes to ICE Clear Europe's EOD Price Discovery Policy that amend the application of the firm trade notional limit to be imposed at the CP affiliate group level rather than at the individual Clearing Member level, the changes are intended to manage what, in ICE Clear Europe's view, is an inappropriate level of risk to its Clearing Members, while also ensuring the integrity of the end-of-day price submission process. ICE Clear Europe asserts that the proposed change is intended to apply to Clearing Members fairly, and ICE Clear Europe has represented that the proposed rule

<sup>15</sup> Notice, 82 FR at 22358-59.

<sup>16</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>17</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>18</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>19</sup> 15 U.S.C. 78q-1(b)(3)(G).

<sup>20</sup> 15 U.S.C. 78q-1(b)(5)(A).

<sup>21</sup> 17 CFR 240.17Ad-22(e)(3)(i).

<sup>22</sup> 17 CFR 240.17Ad-22(e)(6)(vii).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

change recognizes common price submission practices whereby end-of-day submissions from multiple affiliated entities often reflect the institution's overall view on the value of the relevant instrument.<sup>23</sup> Accordingly, the Commission finds that the proposed amendment regarding firm trade notional limits is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions consistent with the requirements of Section 17A(b)(3)(F), and also finds that the proposed rule change provides for the equitable allocation of reasonable fees, dues and other charges among its participants, consistent with Section 17A(b)(3)(D) of the Act.

Regarding the changes to the EOD Price Discovery Policy that provide for validation of models supporting the end-of-day price discovery process and for review of the EOD Price Discovery Policy by the Board, the Commission believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act, Rule 17Ad-22(e)(3)(i), and Rule 17Ad-22(e)(6)(vii). By requiring an independent validation of models used to support the EOD Price Discovery Policy, ICE Clear Europe will be better able to ensure that the end-of-day pricing models are appropriately designed and provide reliable results in the end-of-day pricing process. Additionally, with the requirement that the EOD Price Discovery Policy be reviewed at least annually by the CDS Risk Committee, and ICE Clear Europe Board and separately requiring that material changes be approved by ICE Clear Europe's Board, with the advice of both the CDS and Board Risk Committees, the proposed rule changes will provide for more substantial involvement in the ongoing management of, and review of changes to, the end-of-day pricing processes by those responsible for ICE Clear Europe's risk governance. Thus, the Commission believes that the proposed rule change will result in more consistent oversight and improvement of the EOD Price Discovery Policy and the underlying models and processes related thereto. The Commission therefore finds that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, consistent with the requirements of Section 17A(b)(3)(F), and also is consistent with the requirements of Rule 17Ad-22(e)(3)(i) regarding periodic review and

annual approval by the Board, and the requirements of Rule 17Ad-22(e)(6)(vii) regarding model validation of models related to the covered clearing agency's margin system.

The Commission also finds that the proposed changes to ICE Clear Europe's Price Submission Disciplinary Framework are consistent with the requirements of the Act. Specifically, the proposed changes would amend and formalize the process in which Clearing Members are sanctioned for failure to comply with the price submission process. Specifically, the proposed rule change will set forth the process under which ICE Clear Europe will provide notice to Clearing Members of its allegation(s) of their failures to meet the price submission requirements, methods in which the Clearing Members can respond or object, and the sanctions that will be imposed for failures to meet the price submission requirements. The Commission finds that the formalization of this process in ICE Clear Europe's Price Submission Disciplinary Framework is consistent with the requirement of Section 17A(b)(3)(G) of the Act that the rules of a clearing agency provide that its participants shall be appropriately disciplined for violations of any provision of the clearing agency's rules by sanction; and that Clearing Members will be duly informed regarding such discipline, consistent with Section 17A(b)(5)(A) of the Act.

#### IV. Conclusion

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICEEU-2017-006) be, and hereby is, approved.<sup>24</sup>

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2017-13897 Filed 6-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32712; 812-14783]

#### Nationwide Fund Advisors, et al.

June 27, 2017.

**AGENCY:** Securities and Exchange Commission ("Commission").

<sup>24</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

#### **ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(j) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** Nationwide Fund Advisors (the "Adviser"), ETF Series Solutions (the "Trust"), and Quasar Distributors, LLC (the "Distributor").

**SUMMARY OF APPLICATION:** Applicants request an order ("Order") that permits: (a) Actively managed series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time ("Reference Order").<sup>1</sup>

**FILING DATE:** The application was filed on June 7, 2017.

**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 July 24, 2017, and should be accompanied by proof of service on applicants, in the form of an

<sup>1</sup> Eaton Vance Management, *et al.*, Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

<sup>23</sup> Notice, 82 FR at 22359.

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:** The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

Applicants: Nationwide Fund Advisors, 10 West Nationwide Blvd., Columbus, Ohio 43215; ETF Series Solutions, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin 53202; Quasar Distributors, LLC, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

**FOR FURTHER INFORMATION CONTACT:** Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (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 Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551–8090.

### Applicants

1. The Trust is registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of Delaware. Applicants seek relief with respect to one Fund (as defined below, and that Fund, the "Initial Fund"). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Adviser, a Delaware business trust, will be the investment adviser to the Initial Fund. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Adviser may retain one or more subadvisers (each a "Subadviser") to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Delaware limited liability company and a broker-dealer registered under the Securities

Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser (included in the term "Distributor"). Any Distributor will comply with the terms and conditions of the Order.

### Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,<sup>2</sup> the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Fund and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term "Adviser"); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a "Fund").<sup>3</sup>

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the

<sup>2</sup> Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

<sup>3</sup> All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) 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 section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is 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; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017–13904 Filed 6–30–17; 8:45 am]

**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81028; File No. SR–ICC–2017–007]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to ICC's Cash Investment Yield Schedule

June 27, 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(“Act”)<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on June 16, 2017, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change.

### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to make changes to ICC’s cash investment yield schedule.

### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

#### A. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC currently retains a portion of interest earned on cash balances, net of cash management expenses. The portion of interest retained is based on an established cash investment yield schedule, which is set forth in the ICC Collateral Management presentation available on the ICC Web site.<sup>5</sup> ICC proposes changes to its cash investment yield schedule. The proposed revisions to the cash investment yield schedule are set forth in Exhibit 5 hereto, and described in detail as follows.

Currently ICC retains a 10 bps spread for interest rate market environments of 50 bps or greater, net of expenses. As a result of increased treasury expenses due to continued business and regulatory focus on liquidity, ICC proposes an increase to the ICC portion of investment yield on cash balances for

higher interest rate market environments (*i.e.* greater than 100 bps) to 10% of investment yield, net of expenses. ICC also proposes moving the five bps yield section to the ‘zero’ ICC portion of investment yield on cash balances. Currently, a five bps yield results in an ICC investment yield of one bps.

The investment yield schedule changes will apply to both house and client accounts, and ICC proposes to make such changes effective July 3, 2017. ICC will issue a circular notification in advance of the effective date.

ICC believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act.<sup>6</sup> More specifically, the proposed rule changes change a member due, fee or other charge imposed by ICC under Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and Rule 19b-4(f)(2)<sup>8</sup> thereunder. ICC believes the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(D)<sup>9</sup>, because the proposed changes apply equally to all market participants and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. As such, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and paragraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder.

#### B. Clearing Agency’s Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The changes to ICC’s investment yield schedule will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

#### C. Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

### III. Date of Effectiveness of the Proposed Rule Change

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act and Rule 19b-4(f)(2)<sup>13</sup> thereunder, as the changes to ICC’s investment yield schedule constitute a change to a due, fee, or other charge applicable only to a member. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2017-007 on the subject line.

#### Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ICC-2017-007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission’s Public Reference Room, 100 F Street NE., Washington, DC 20549, on official

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> [https://www.theice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Collateral\\_Management.pdf](https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Collateral_Management.pdf).

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at <https://www.theice.com/clear-credit/regulation>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2017-007 and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-13898 Filed 6-30-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81034; File No. SR-ISE-2017-58]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Specify an Exception to the Manner in Which Market Maker Immediate-or-Cancel Orders Will Be Handled

June 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 19, 2017, Nasdaq, ISE LLC ("ISE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 715(b)(3) to specify an exception to the manner in which Immediate-or-Cancel Orders will be handled by the System when entered through the

Specialized Quote Feed<sup>3</sup> ("SQF") protocol.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing to amend ISE Rule 715(b)(3) to specify the manner in which an Immediate-or-Cancel Order will interact with certain order protections when entered through SQF. An Immediate-or-Cancel Order is defined as a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.<sup>4</sup> SQF is an interface that is being introduced with the technology migration to a Nasdaq, Inc. ("Nasdaq") supported architecture.<sup>5</sup> Today, Members may enter orders through FIX, DTI or Nasdaq Precise on ISE. After the migration to the INET architecture, Members will continue to be able to submit orders through FIX or Nasdaq Precise, as is the case today, and

<sup>3</sup> SQF is an interface that allows Market Makers to connect and send quotes, Immediate-or-Cancel Orders and auction responses into ISE.

<sup>4</sup> See ISE Rule 715(b)(3). Immediate-or-Cancel Orders do not route.

<sup>5</sup> See Securities Exchange Act Release No. 80432 (April 11, 2017 (SR-ISE-2017-03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology). INET is the proprietary core technology utilized across Nasdaq's global markets and utilized on The NASDAQ Options Market LLC ("NOM"), NASDAQ PHLX LLC ("Phlx") and NASDAQ BX, Inc. ("BX") (collectively, "Nasdaq Exchanges"). The migration of ISE to the Nasdaq INET architecture would result in higher performance, scalability, and more robust architecture. With this system migration, the Exchange intends to adopt certain trading functionality currently utilized at Nasdaq Exchanges. The functionality being adopted is described in this filing.

OTTO will also be available to enter orders. SQF will be available for Market Makers<sup>6</sup> to enter quotes and also Immediate-or-Cancel Orders. DTI will no longer be available.

With the introduction of SQF, the Exchange proposes to amend ISE Rule 715(b)(3) to state that an Immediate-or-Cancel order entered by a Market Maker through SQF will not be subject to the (i) Limit Order Price Protection and Size Limitation Protection as defined in ISE Rule 714(b)(2) and (3); or (ii) Limit Order Price Protection as defined in Supplementary Material .07(d) to ISE Rule 722. All other Immediate-or-Cancel Orders entered through FIX, OTTO or Nasdaq Precise will continue to be subject to these protections.

ISE Rule 714, entitled "Automatic Execution of Orders," contains a section (b)(2) and (3) which applies to order protections that are automatically enforced by the System. The Limit Order Price Protection sets a limit on the amount by which incoming limit orders to buy may be priced above the Exchange's best offer and by which incoming limit orders to sell may be priced below the Exchange's best bid. Limit orders that exceed the pricing limit are rejected.<sup>7</sup> Immediate-or-Cancel Orders entered through SQF will not be subject to the Limit Order Price Protection provided in ISE Rule 714(b)(2).

ISE Rule 714(b)(3) provides a protection for size limitation. The System limits the number of contracts an incoming order may specify. Orders that exceed the maximum number of contracts are rejected.<sup>8</sup> Immediate-or-Cancel Orders entered through SQF will not be subject to this size limitation protection provided in ISE Rule 714(b)(3).<sup>9</sup>

Supplementary Material .07(d) to ISE Rule 722 provides for a Limit Order Price Protection for Complex Orders. This protection limits the amount by which the net price of an incoming complex limit order to buy may exceed the net price available from the individual options series on the Exchange and by which the net price of

<sup>6</sup> The term "market makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See ISE Rule 100(a)(25).

<sup>7</sup> The limit is established by the Exchange from time-to-time for orders to buy (sell) as the greater of the Exchange's best offer (bid) plus (minus): (i) An absolute amount not to exceed \$2.00, or (ii) a percentage of the Exchange's best bid/offer not to exceed 10%. See ISE Rule 714(b)(2).

<sup>8</sup> The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time. See ISE Rule 714(b)(3).

<sup>9</sup> The Exchange notes that the protection for size limitation will be applied to Complex Immediate-or-Cancel Orders that are entered through SQF.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

an incoming complex limit order to sell may be below the net price available from the individual options series on the Exchange. Limit orders that exceed the pricing limit are rejected.<sup>10</sup> Immediate-or-Cancel Orders entered through SQF will not be subject to the Limit Order Protection provided in Supplementary Material .07(d) to ISE Rule 722.

#### Implementation

The Exchange intends to begin implementation of the proposed rule change in Q2 2017. The ISE migration will be on a symbol by symbol basis as specified in alert to Members that was issued by the Exchange in the form of an Options Trader Alert.<sup>11</sup> The alert provides the dates that symbols will migrate to INET.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

With the adoption of the SQF protocol on INET, the Exchange will offer Market Makers the ability to expeditiously submit Immediate-or-Cancel orders through SQF, without having to involve a different protocol and method of entry such as FIX, OTTO or Nasdaq Precise. With the ability for Market Makers to utilize the SQF protocol to enter Immediate-or-Cancel Orders, in addition to having the ability to enter Immediate-or-Cancel Orders on FIX, OTTO or Nasdaq Precise, similar to other market participants, Market Makers may submit Immediate-or-Cancel Orders into SQF allowing them to manage risk utilizing a single protocol, SQF.

Unlike other market participants, Market Makers are required to provide liquidity to the market and are subject to certain obligations, including a requirement to provide continuous two-sided quotes on a daily basis.<sup>14</sup> Market

Makers use Immediate-or-Cancel Orders to trade out of accumulated positions and manage their risk when providing liquidity on the Exchange. Proper risk management, including using these Immediate-or-Cancel Orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. The Exchange believes that allowing Market Makers to submit Immediate-or-Cancel Orders though their preferred protocol will increase their efficiency in submitting such orders and thereby allow them to maintain quality markets to the benefit of all market participants that trade on the Exchange.

Miami International Securities Exchange LLC ("MIAX") utilizes its MIAX Express Interface (MEI), a quoting interface, for market makers to enter immediate-or-cancel orders.<sup>15</sup> Specifically, MIAX noted in its Application for Registration as a National Securities Exchange, ". . . MIAX would allow market makers to use a variety of quote types, some of which would have a specific time in force and would be analogous to orders (MIAX refers to such order types as "eQuotes," and market makers would be able to enter these orders through their quotation infrastructure)."<sup>16</sup> Furthermore, MIAX's Price Protection on Non-Market Maker Orders is not available for orders submitted by a Market Maker.<sup>17</sup> The Price Protection on Non-Market Maker Orders prevents an order from being executed at a price beyond the price designated in the order's price protection instructions, and is a similar protection to the Exchange's Limit Order Price Protection. The Exchange similarly believes that it is consistent with the Act to not apply certain protections to Market Maker Immediate-or-Cancel Orders submitted through SQF.

Market Makers handle a large amount of risk when quoting on ISE and in addition to the risk protections required by the Exchange, Market-Makers utilize their own risk management parameters when entering orders, minimizing the

likelihood of a Market Maker order resulting from an error from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting Immediate-or-Cancel Orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the continuous quoting obligations the Exchange imposes on these participants. If Market Makers desire the Limit Order Protections for single leg and complex orders and the Size Limitation Protections for single leg orders, they may utilize the FIX, OTTO or Nasdaq Precise protocols for entering their orders. The Exchange notes that market makers on NASDAQ Phlx LLC ("Phlx") may enter Immediate-or-Cancel Orders through SQF and are similarly not subject to certain risk protections today.<sup>18</sup> The Exchange represents that it will continue to assess the risk protections that are applied to orders, including Market Maker Immediate-or-Cancel Orders submitted through SQF, to ensure that adequate risk protections are available to members that trade on the Exchange. The Exchange will file to adopt additional risk protections in the event that the Exchange determines that such additional protections are appropriate in the interest of maintaining a fair and orderly market.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Market Makers handle a large amount of risk when quoting on ISE and in addition to the risk protections required by the Exchange, Market-Makers utilize their own risk management parameters when entering orders, minimizing the likelihood of a Market Maker order resulting from an error from being entered. Market Makers also transact a large amount of orders on the Exchange and bring liquidity to the market. Market Makers should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the

<sup>10</sup> The limit is established by the Exchange from time-to-time for complex orders to buy (sell) as the greater of the net price available from the individual options series on the Exchange plus (minus): (i) An absolute amount not to exceed \$2.00, or (ii) a percentage of the net price available from the individual options series on the Exchange not to exceed 10%. This limit order price protection applies only to orders and does not apply to quotes.

<sup>11</sup> See Options Trader Alert #2017-40.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See ISE Rule 804(e).

<sup>15</sup> MIAX offers an eQuote, which is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote. See MIAX Rule 517(a)(2).

<sup>16</sup> See Securities Exchange Release Act No. 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (File No. 10-207) (In the Matter of the Application of Miami International Securities Exchange, LLC for Registration as a National Securities Exchange: Findings, Opinion, and Order of the Commission).

<sup>17</sup> See MIAX Rule 515(c)(1).

<sup>18</sup> See Securities and Exchange Release No. 76295 (October 29, 2015), 80 FR 68338 at 68339 (November 4, 2015) (SR-Phlx-2015-83) (Phlx noted in footnote 8 that while SQF permits the receipt of quotes, sweeps are not included for purposes of the Percentage Based risk protection in Rule 1095(i)). Phlx Rule 1080(c)(iii)(B) provides that, ". . . Market Sweeps are processed on an immediate-or-cancel basis, may not be routed, may be entered only at a single price, and may not trade through away markets."



continuous quoting obligations the Exchange imposes on these members that are not applicable to other market participants. The Exchange therefore believes that this rule change will not impose an undue burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it is requesting this waiver because ISE intends to offer to Market Makers the functionality to submit Immediate-or-Cancel Orders through SQF at the start of the INET migration, even though the Limit Order Price Protections in ISE Rule 714(b)(2) and Supplementary Material .07(d) to ISE Rule 722 and the Size Limitation Protection in ISE Rule 714(b)(3) would not apply to those orders. The Exchange believes that Market Makers should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, due to the continuous quoting obligations the Exchange places on Market Makers, unlike other market participants. Additionally the Exchange believes that Market Makers have the

ability to manage their own risk when submitting Immediate-or-Cancel Orders through SQF. The Exchange represents that it will continue to assess the risk protections that are applied to orders and will file to adopt additional risk protections if it determines that such additional protections are appropriate in the interest of maintaining a fair and orderly market.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because this waiver will enable the Exchange to permit Market Makers to utilize the SQF protocol to submit Immediate-or-Cancel Orders in the symbols that have been migrated to INET, thereby allowing Market Makers to manage their risk through a single protocol for entering orders and quotations and comply with their continuous quoting requirements. The Commission notes that Market Makers are sophisticated market participants that have alternative methods to manage risk and that the Exchange will continue to assess the need for additional risk protections that may be appropriate, including for Immediate-or-Cancel Orders submitted through SQF. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.<sup>21</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>22</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-58 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2017-58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-58, and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>21</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>22</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>23</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32713; 813-00386]

### The Boston Consulting Group, Inc. and Green Falcon Investors I, L.P.

June 27, 2017.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice.

Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the “Act”) granting an exemption from all provisions of the Act and the rules and regulations thereunder, except sections 9, 17, 30, and 36 through 53 of the Act, and the rules and regulations thereunder (the “Rules and Regulations”). With respect to sections 17(a), (d), (f), (g) and (j) and 30(a), (b), (e), and (h) of the Act, and the Rules and Regulations, and rule 38a-1 under the Act, the exemption is limited as set forth in the application.

**SUMMARY OF APPLICATION:** Applicants request an order to exempt certain limited partnerships and other entities formed for the benefit of eligible employees of The Boston Consulting Group, Inc. (“BCG”) and its affiliates from certain provisions of the Act. Each such entity will be an “employees’ securities company” within the meaning of section 2(a)(13) of the Act.

**APPLICANTS:** BCG and Green Falcon Investors I, L.P. (the “Existing Fund”).

**FILING DATES:** The application was filed on September 16, 2016 and was amended on March 08, 2017.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving 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 July 24, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, 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: One Beacon Street, 10th Floor, Boston, Massachusetts 02108.

**FOR FURTHER INFORMATION CONTACT:** Rachel Loko, Senior Counsel, at (202) 551-6883 or Aaron Gilbride, Acting Branch Chief, at (202) 551-6906 (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 Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Applicants’ Representations

1. BCG, a Massachusetts corporation, is a management consulting firm. Any entity controlling, controlled by, or under common control with BCG is each a “BCG Entity”.

2. The Existing Fund is a Delaware limited partnership formed in 2016 pursuant to a limited partnership agreement (the “Existing Fund Agreement”). The applicants may in the future offer additional pooled investment vehicles substantially similar in all material respects (other than form of organization, investment objective and strategy, and other differences described in the application) to Eligible Investors (as defined below) (the “Subsequent Funds” and, together with the Existing Fund, the “Investment Funds”).<sup>1</sup> The applicants anticipate that each Subsequent Fund also will be structured as a limited partnership, although a Subsequent Fund could be structured as a domestic or offshore general partnership, limited liability company or corporation. The operating agreements of the Investment Funds are the “Investment Fund Agreements.” An Investment Fund may include a single vehicle designed to issue interests in series or having similar features to enable a single Investment Fund to function as if it were several successive Investment Funds for ease of administration. Each Investment Fund will be an employees’ securities company within the meaning of section 2(a)(13) of the Act.

3. The Existing Fund is organized to provide a benefit for Eligible Investors by providing the opportunity to participate in certain investment opportunities which would in all likelihood be unavailable to such investors acting individually. The Investment Funds will invest in certain

investment opportunities that come to the attention of BCG or a BCG Entity. These opportunities may include investments in operating businesses, separate accounts with registered or unregistered investment advisers, investments in pooled investment vehicles such as registered investment companies, investment companies exempt from registration under the Act, commodity pools, and other securities investments (each particular investment being referred to herein as an “Investment”). Applicants submit that a substantial community of interest exists among BCG, the BCG Entities and the current and future members (“Members”) of the Existing Fund, given the purposes and operations of the Existing Fund and the nature of the Eligible Investors participating in such fund. BCG will “control” each Investment Fund within the meaning of section 2(a)(9) of the Act.

4. Interests in an Investment Fund (“Interests”) will be offered and sold by the Investment Funds in reliance upon the exemption from registration under section 4(2) of the Securities Act of 1933 (the “Securities Act”) or pursuant to Regulation D or Regulation S promulgated under the Securities Act. Interests in any Investment Fund (other than short-term paper) will be offered only to BCG, BCG Entities, or Eligible Investors. “Eligible Investors” means persons who at the time of investment are: (a) Current or former employees, partners, principals, officers and directors of BCG or a BCG Entity (including people involved in administration, marketing, and operations of BCG or a BCG Entity) (“Eligible Employees”), (b) the immediate family members of Eligible Employees, which are parents, children, spouses of children, spouses, and siblings, including step or adoptive relationships (“Immediate Family Members”),<sup>2</sup> and (c) trusts or other entities or arrangements the sole beneficiaries of which consist of Eligible Employees or their Immediate Family Members, or the settlors and the trustees of which consist of Eligible Employees or Eligible Employees together with Immediate Family Members (“Eligible Investment Vehicles”). To qualify as an Eligible Investor with respect to an

<sup>2</sup> In order to ensure that a close nexus between the Eligible Investors and BCG is maintained, the terms of each governing document for an Investment Fund will provide that any Immediate Family Member participating in such Investment Fund (either through direct beneficial ownership of an interest or as an indirect beneficial owner through an Eligible Investment Vehicle) cannot, in any event, be more than two generations removed from an Eligible Employee.

<sup>1</sup> Each Investment Fund will operate either as a closed-end or open-end management investment company and a particular Investment Fund will operate as a “diversified” or “non-diversified” vehicle within the meaning of the Act.

Investment Fund, each Eligible Employee and Immediate Family Member must, if purchasing an Interest from an Investment Fund or from a Member, be an “accredited investor” as that term is defined in Rule 501(a)(5) or Rule 501(a)(6) of Regulation D under the Securities Act except that a maximum of 35 Eligible Employees who are sophisticated investors but who are not accredited investors may become investors in an Investment Fund if each of them falls into one of the following categories: (i) An Eligible Employee who (a) has a graduate degree in business, law or accounting, (b) has a minimum of five years of consulting, investment management, investment banking, legal or similar business experience, and (c) had reportable income from all sources (including any profit shares or bonus) of \$100,000 in each of the two most recent years immediately preceding the Eligible Employee’s admission as an investor of the Investment Fund and has a reasonable expectation of income from all sources of at least \$140,000 in each year in which the Eligible Employee will be committed to make investments in the Investment Fund; or (ii) Eligible Employees who are “knowledgeable employees” as defined in Rule 3c-5 under the 1940 Act, of the Investment Fund (with the Investment Fund treated as though it were a “covered company” for purposes of the rule).<sup>3</sup>

BCG or any BCG Entity that acquires Interests in an Investment Fund will be an accredited investor. An Eligible Investment Vehicle may purchase an Interest from an Investment Fund or from a Member only if either (i) the investment vehicle is an “accredited investor”, as defined in Rule 501(a) of Regulation D under the Securities Act or (ii) the Eligible Employee is a settlor<sup>4</sup> and principal investment decision-maker with respect to the investment vehicle. Eligible Investment Vehicles that are not accredited investors will be counted in accordance with Regulation D toward the 35 non-accredited investor limit discussed above. Prior to offering

<sup>3</sup> An Eligible Employee described in clause (i) above will only be permitted to invest in an Investment Fund if such individual represents and warrants that he or she will not commit in any year more than 10% of his or her income from all sources for the immediately preceding year, in the aggregate, in an Investment Fund and in all other Investment Funds in which that investor has previously invested.

<sup>4</sup> If an Eligible Investment Vehicle is an entity or arrangement other than a trust, (a) the reference to “settlor” shall be construed to mean a person who created the vehicle or arrangement, alone or together with others, and also contributed funds or other assets to the vehicle, and (b) the reference to “trustee” shall be construed to mean a person who performs functions similar to those of a trustee of a trust.

Interests to an Eligible Employee or Immediate Family Member, the General Partner must reasonably believe that the Eligible Employee or Immediate Family Member is a sophisticated investor capable of understanding and evaluating the risks of participating in the Investment Fund without the benefit of regulatory safeguards. The General Partner may impose more restrictive standards for Eligible Investors in its discretion. The beneficial owners of an Eligible Investment Vehicle will be persons eligible to hold interests in employees’ securities companies as defined in section 2(a)(13) of the Act.

5. An Investment Fund will be managed by its general partner (“General Partner”). The General Partner of the Existing Fund is a limited liability company. The General Partner will be wholly owned by BCG and will be managed by BCG through its executive committee and/or such other committee to be formed for such purpose (“Investment Committee”). The Investment Committee will be comprised of senior professionals of BCG. The chief function of the Investment Committee will be to review and select Investments for an Investment Fund (or a series thereof) from time to time. The General Partner will register as an investment adviser under the Investment Advisers Act of 1940 (the “Advisers Act”), if such registration is required under the Advisers Act and the rules thereunder.

6. Administration of each Investment Fund will be vested in the General Partner. The General Partner may determine to delegate administrative activities to a third-party administrator. If a third-party administrator is retained by the General Partner, the administrator will not recommend Investments or exercise investment discretion. The only functions of the administrator will be ministerial.

7. The specific investment objectives and strategies for an Investment Fund will be set forth in an informative memorandum relating to the Interests being offered, and in the relevant Investment Fund Agreement, and each Eligible Investor will receive a copy of the informative memorandum and Investment Fund Agreement before making an investment in the Investment Fund. The terms of an Investment Fund will be disclosed to each Eligible Investor at the time the investor is invited to participate in the Investment Fund.

8. The value of the Members’ capital accounts will be determined at such times as the General Partner deems appropriate or necessary; however, such valuation will be done at least annually

at the Investment Fund’s fiscal year-end. The General Partner will value the assets held by an Investment Fund at the current market price (closing price) in the case of marketable securities. All other securities or assets will be valued by the General Partner in good faith at fair value.

9. Each Investment Fund will generally bear its own expenses. BCG or a BCG Entity, as applicable, may be reimbursed by an Investment Fund for reasonable and necessary out-of-pocket costs directly associated with the organization and operation of the Investment Fund, including administrative expenses. There will be no allocation of any of BCG’s operating expenses to the Investment Funds. Some of the investment opportunities available to an Investment Fund may involve parties for which BCG was, is or will be retained to act as management consultants, and BCG may be paid by such parties for management consulting services and for related disbursements and charges. These amounts paid to BCG will not be paid by an Investment Fund itself but by the entities in which an Investment Fund invests or their sponsors. No management fee or other compensation will be paid by an Investment Fund or the Members to the Investment Committee, any member of the Investment Committee, or the General Partner. Also, no fee of any kind will be charged in connection with the sale of Interests in an Investment Fund.

10. Within 120 days after the end of its fiscal year, or as soon as practicable thereafter, each Investment Fund will send its Members an annual report regarding its operations. The annual report of the Investment Fund will contain financial statements audited by an independent accounting firm. For purposes of this requirement, “audit” has the meaning defined in rule 1-02(d) of Regulation S-X. The Investment Fund will maintain a file containing any financial statements and other information received from the issuers of the Investments held by the Investment Fund, and will make such file available for inspection by its Members in accordance with its Investment Fund Agreement. Each Investment Fund, within 90 days or as soon as practicable after the end of each fiscal year of the Investment Fund, will transmit a report to each Member setting out information with respect to that Member’s distributive share of income, gains, losses, credits and other items for U.S. federal income tax purposes, resulting from the operation of the Investment Fund during that year.

11. Members will not be entitled to redeem their Interests in a closed-end

Investment Fund. A Member will be permitted to transfer his or her Interest only with the express consent of the General Partner, which may be withheld in the discretion of the General Partner, and then only to BCG, a BCG Entity or an Eligible Investor. A Member will not be subject to removal except for good cause as determined by the General Partner, or if the General Partner, in its discretion, deems such withdrawal to be in the best interest of the Investment Fund. The Interests of a Member who is no longer eligible to own interests in an employees' securities company as defined in section 2(a)(13) of the Act will be repurchased, subject to the minimum payment provisions described below. The General Partner does not currently intend to require any Member to withdraw.<sup>5</sup> Upon withdrawal or sale of a Member's Interest, the Investment Fund or purchaser will at a minimum pay to the Member the lesser of: (a) The amount of such Member's capital contributions plus interest (calculated at a rate determined by the General Partner to be reasonably comparable to interest earned by the Investment Fund on temporary investments) less prior distributions; and (b) the fair market value of the Interest as determined at the time of such withdrawal or sale in good faith by the General Partner. If a Member ceases to be a partner or employee of BCG or any BCG Entity, such Member may continue to be a Member of the Investment Fund, although with the consent of the General Partner such Member may be permitted to reduce the unfunded portion of his or her Capital Commitment (as defined below), assign his or her Interest to other Eligible Investors and/or be paid for his or her Interest as described above. The terms of any purchase will apply equally to any Immediate Family Member of, or Eligible Investment Vehicle related to, an Eligible Employee.

12. Each Member will commit to contribute a fixed amount of capital to an Investment Fund ("Capital

<sup>5</sup> The following circumstances, among others, could warrant the withdrawal of a Member or sale of a Member's Interests to another Eligible Investor: If a Member who is an Eligible Employee ceases to be a partner or employee of BCG (including as a result of such Eligible Employee's death, disability, termination, retirement or withdrawal), an Immediate Family Member's or Eligible Investment Vehicle's related Eligible Employee ceases to be a partner or employee of BCG (including as a result of such Eligible employee's death, disability, termination, retirement or withdrawal), adverse tax consequences were to inure to the Investment Fund, the General Partner or any Member were a particular Member to remain, or a situation in which the continued membership of the Member would violate applicable law or regulations.

Commitment").<sup>6</sup> The terms and conditions relating to Capital Commitments and Capital Contributions will be fully disclosed to Eligible Investors prior to the acceptance of their subscription documents. To provide flexibility in connection with an Investment Fund's obligation to contribute capital to fund an Investment, and the associated obligation of the Members to make capital contributions with respect to their Capital Commitments, an Investment Fund Agreement may provide that the Investment Fund may engage in borrowings in connection with such funding of Investments. Any borrowings by an Investment Fund with respect to the funding of Investments will be non-recourse to the Members,<sup>7</sup> but may be secured by a pledge of the Members' respective capital accounts and unfunded Capital Commitments. An Investment Fund will not borrow from any person that is not a BCG Entity if the borrowing would cause any person not named in section 2(a)(13) of the Act to own any outstanding securities of the Investment Fund (other than short-term paper). If BCG or a BCG Entity makes a loan to an Investment Fund, it (as lender) will be entitled to receive interest, provided that the rate will be no less favorable to the borrower than the rate that could be obtained on an arm's length basis. An Investment Fund will not lend any funds to BCG or a BCG Entity. If BCG or a BCG Entity extends a loan to an Eligible Investor in respect of any Investment Fund, the loan will be made at an interest rate no less favorable than that which could be obtained on an arm's length basis. Loans will not be extended or arranged if otherwise prohibited by law, including the Sarbanes-Oxley Act of 2002.

13. An Investment Fund will not acquire any security issued by a registered investment company if immediately after the acquisition the Investment Fund would own more than 3% of the total outstanding voting stock of the registered investment company.

#### Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent

<sup>6</sup> Eligible Investors may be offered the opportunity to borrow funds from BCG to acquire Interests and/or to fund Capital Contributions. Any such loans will be interest-bearing and may be on a recourse or non-recourse basis, and may be secured by a pledge of equity in a BCG Entity, including the Interests.

<sup>7</sup> This excludes indebtedness incurred specifically on behalf of a Member where the Member has agreed to guarantee the loan or to act as co-obligor on the loan.

that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, the disposition of the proceeds of any sales of the company's securities, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) of the Act provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act exempting applicants from all provisions of the Act, except sections 9, 17, 30, 36 through 53, and the Rules and Regulations. With respect to sections 17(a), (d), (f), (g) and (j) and 30(a), (b), (e) and (h) of the Act and the Rules and Regulations, and rule 38a-1 under the Act, applicants request a limited exemption as set forth in the application.

3. Section 17(a) of the Act generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to (a) permit a BCG Entity (or any affiliated person of such BCG Entity), or any affiliated person (as defined in section 2(a)(3) of the Act) of an Investment Fund ("First-Tier Affiliates") or affiliated persons of such persons ("Second-Tier Affiliates," and together with First-Tier Affiliates, "Affiliates"), acting as principal, to engage in any transaction directly or

indirectly with any Investment Fund or any company controlled by such Investment Fund; and (b) permit an Investment Fund to invest in or engage in any transaction with any BCG Entity, acting as principal, (i) in which such Investment Fund, any company controlled by such Investment Fund or any BCG Entity has invested or will invest, or (ii) with which such Investment Fund, any company controlled by such Investment Fund or any BCG Entity is or will become otherwise affiliated. The transactions to which any Investment Fund is a party will be effected only after a determination by the General Partner that the requirements of Conditions 1, 2 and 3 in "Conditions" (set forth below) have been satisfied. Applicants, on behalf of the Investment Funds, represent that any transactions otherwise subject to section 17(a) of the Act, for which exemptive relief has not been requested, would require approval of the Commission.

4. Applicants submit that the exemptions sought from section 17(a) are consistent with the purposes of the Act and the protection of investors. Applicants state that the Members will be informed in an Investment Fund's offering materials of the possible extent of the dealings by such Investment Fund and any portfolio company with BCG, any BCG Entity or any affiliated person thereof. Applicants also state that, as experienced professionals acting on behalf of financial services businesses, the Members will be able to evaluate the risks associated with such dealings. Applicants assert that the community of interest among the General Partner, the Members, BCG and the BCG Entities will serve to reduce the risk of abuse in transactions involving an Investment Fund and BCG, any BCG Entity or any affiliated person thereof.

5. Section 17(d) of the Act and rule 17d-1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from participating in any joint arrangement with the registered investment company unless authorized by the Commission. Applicants request an exemption from section 17(d) and rule 17d-1 to the extent necessary to permit an Investment Fund to engage in transactions in which an Affiliate participates as a joint or a joint and several participants with such Investment Fund.

6. Joint transactions in which an Investment Fund could participate might include the following: (a) A joint investment by one or more Investment Funds in a security in which BCG or a

BCG Entity, or another Investment Fund, is a joint participant or plans to become a participant; (b) a joint investment by one or more Investment Funds in another Investment Fund; and (c) a joint investment by one or more Investment Funds in a security in which an Affiliate is an investor or plans to become an investor, including situations in which an Affiliate has a partnership or other interest in, or compensation arrangements with, such issuer, sponsor or offeror.

7. Applicants assert that compliance with section 17(d) and rule 17d-1 would cause an Investment Fund to forego investment opportunities simply because a Member, BCG, a BCG Entity or other affiliated persons of the Investment Fund, BCG or the BCG Entities also had, or contemplated making, a similar investment. In addition, because attractive investment opportunities of the types considered by an Investment Fund often require that each participant make available funds in an amount that may be substantially greater than that available to the investor alone, there may be certain attractive opportunities of which an Investment Fund may be unable to take advantage except as a co-participant with other persons, including Affiliates. Applicants believe that the flexibility to structure co- and joint investments in the manner described above will not involve abuses of the type section 17(d) and rule 17d-1 were designed to prevent. Applicants acknowledge that any transactions subject to section 17(d) and rule 17d-1 for which exemptive relief has not been requested in the application would require specific approval by the Commission.

8. Section 17(f) of the Act designates the entities that may act as investment company custodians, and rule 17f-2 under the Act allows an investment company to act as self-custodian. Applicants request an exemption to permit the following exceptions from the requirements of rule 17f-2: (i) Compliance with paragraph (b) of the rule may be achieved through safekeeping in the locked files of BCG or a BCG partner; (ii) for the purposes of the rule, (A) employees of BCG or a BCG Entity will be deemed employees of the Investment Funds, (B) officers and members of the Managing Member and members of the Investment Committee will be deemed to be officers of such Investment Funds, and (C) officers and members of the Managing Member and members of the Investment Committee will be deemed to be the board of directors of such Investment Funds; and (iii) instead of the verification procedure under paragraph

(f) of the rule, verification will be effected quarterly by two employees, each of whom shall have sufficient knowledge, sophistication and experience in business matters to perform such examination. Applicants expect that most of the Investments will be evidenced by partnership agreements or similar documents. Such instruments are most suitably kept in BCG's files, where they can be referred to as necessary. Applicants will comply with all other provisions of rule 17f-2.

9. Section 17(g) and rule 17g-1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g-1 requires that a majority of directors who are not interested persons of a registered investment company ("disinterested directors") take certain actions and give certain approvals relating to fidelity bonding. Applicants request an exemption from the requirement, contained in rule 17g-1, that a majority of the "directors" of the Investment Funds who are not "interested persons" of the respective Investment Funds (as defined in the Act) take certain actions and make certain approvals concerning bonding and request instead that such actions and approvals be taken by the Managing Members, regardless of whether any of them is deemed to be an interested person of the Investment Funds. Each Managing Member will be an interested person of the Investment Funds.

10. The Investment Funds request an exemption from the requirements of rule 17g-1(g) and (h) relating to the filing of copies of fidelity bonds and related information with the Commission and relating to the provisions of notices to the board of directors. Applicants also request an exemption from the requirements of rule 17g-1(j)(3) that the Investment Funds have a majority of disinterested directors, that those disinterested directors select and nominate any other disinterested directors, and that any legal counsel for those disinterested directors be independent legal counsel. Applicants believe that the filing requirements of rule 17g-1 are burdensome and unnecessary as applied to the Investment Funds. The General Partner will maintain the materials otherwise required to be filed with the Commission by rule 17g-1(g) and the applicants agree that all such material will be subject to examination by the Commission and its staff. The General Partner will designate a person to maintain the records otherwise required to be filed with the Commission under paragraph (g) of the rule. The

Investment Funds will comply with all other requirements of rule 17g-1. The fidelity bond of the Investment Funds will cover the Investment Committee, the General Partner and all employees of BCG or any BCG Entity who have access to the securities or funds of the Investment Funds.

11. Applicants request an exemption from the requirements, contained in section 17(j) of the Act and rule 17j-1 under the Act, that every registered investment company adopt a written code of ethics and every "access person" of such registered investment company report to the investment company with respect to transactions in any security in which such access person has, or by reason of the transaction acquires, any direct or indirect beneficial ownership in the security. Applicants request an exemption from the requirements in rule 17j-1, with the exception of rule 17j-1(b), because they are burdensome and unnecessary as applied to the Investment Funds and because the exemption is consistent with the policy of the Act. Requiring the Investment Funds to adopt a written code of ethics and requiring access persons to report each of their securities transactions would be time-consuming and expensive and would serve little purpose in light of, among other things, the community of interest among the Members of the Investment Fund and the General Partner by virtue of their common association with BCG or a BCG Entity. Accordingly, the requested exemption is consistent with the purposes of the Act because the dangers against which section 17(j) and rule 17j-1 are intended to guard are not present in the case of the Investment Funds.

12. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e) of the Act, and the Rules and Regulations under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to the Investment Funds and would entail administrative and legal costs that outweigh any benefit to the Members. Applicants request exemptive relief to the extent necessary to permit the Investment Funds to report annually to their Members. Applicants also request an exemption from section 30(h) of the Act to the extent necessary to exempt the General Partner, any 10 percent shareholder, and any other person who may be deemed to be an officer, director, member of an

advisory board, or otherwise subject to section 30(h), from filing Forms 3, 4 and 5 under section 16 of the Securities Exchange Act of 1934 ("Exchange Act") with respect to their ownership of Interests in the Investment Funds. Applicants assert that, because there is no trading market for Interests and the transfer of Interests is severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

13. Rule 38a-1 requires investment companies to adopt, implement and periodically review written policies reasonably designed to prevent violation of the federal securities laws and to appoint a chief compliance officer. Each Investment Fund will comply with rule 38a-1(a), (c) and (d), except that (i) the members of the Investment Committee of each Investment Fund will fulfill the responsibilities assigned to the board of directors under the rule, and (ii) because all members of the Investment Committee would be considered interested persons of the Investment Funds, approval by a majority of the disinterested board members required by rule 38a-1 will not be obtained. In addition, the Investment Funds will comply with the requirement in rule 38a-1(a)(4)(iv) that the chief compliance officer meet with the disinterested directors by having the chief compliance officer meet with the members of the Investment Committee. Applicants represent that each Investment Fund will adopt the written policies and procedures reasonably designed to prevent violations of the terms and conditions of the application, has appointed a chief compliance officer and is otherwise in compliance with the terms and conditions of the application.

#### Applicants' Conditions

The applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction, to which an Investment Fund is a party, otherwise prohibited by section 17(a) or section 17(d) and rule 17d-1 (the "Section 17 Transactions") will be effected only if the Investment Committee determines that: (a) The terms of the Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to Members of the Investment Fund and do not involve overreaching of the Investment Fund or its Members on the part of any person concerned; and (b) the Section 17 Transaction is consistent with the interests of the Members of the Investment Fund, the Investment Fund's organizational documents and the

Investment Fund's reports to its Members.

In addition, the Investment Committee will record and preserve a description of such Section 17 Transactions, the findings of the Investment Committee, the information or materials upon which their findings are based and the basis therefor. All such records will be maintained for the life of the Investment Fund and at least six years thereafter, and will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

2. If purchases or sales are made by an Investment Fund from or to an entity affiliated with the Investment Fund by reason of a member of the Investment Committee (a) serving as an officer, director, general partner or investment adviser of the entity, or (b) having a 5% or more investment in the entity, such individual will not participate in the Investment Fund's determination of whether or not to effect the purchase or sale.

3. The Investment Committee will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Investment Fund, or any affiliated person of such a person, promoter, or principal underwriter.

4. The Investment Committee will not purchase for an Investment Fund any Investment in which a Co-Investor, as defined below, has or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d-1 in which the Investment Fund and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment: (a) Gives the Investment Fund holding such investment sufficient, but not less than one day's notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the Investment Fund holding such investment has the opportunity to dispose of its investment prior to or concurrently with, on the same terms as, and on a pro rata basis with the Co-Investor. The term "Co-Investor" with respect to an Investment Fund means any person who is: (a) An affiliated person of the Investment Fund; (b) BCG and any BCG Entity; (c) a current or former partner or key administrative employee of BCG or a BCG Entity; (d)

a company in which a member of the Investment Committee, BCG or a BCG Entity acts as an officer, director, or general partner, or has a similar capacity to control the sale or disposition of the company's securities; or (e) an investment vehicle offered, sponsored, or managed by BCG or an affiliated person of BCG.

The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a "Parent") of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (b) to immediate family members of the Co-Investor or a trust established for the benefit of any such family member; (c) when the investment is comprised of securities that are listed on a national securities exchange registered under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system ("NMS") stocks pursuant to section 11A(a)(2) of the Exchange Act and rule 600(a) of Regulation NMS thereunder; (e) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system of securities; or (f) when the investment is comprised of securities that are government securities as defined in section 2(a)(16) of the Act.

5. An Investment Fund will send, within 120 days after the end of its fiscal year, or as soon as practicable thereafter, to each Member who had an interest in the Investment Fund at any time during the fiscal year then ended, reports and information regarding the Investments, including financial statements for such Investment Fund audited by an independent accounting firm. The Investment Committee will make a valuation or have a valuation made of all of the assets of an Investment Fund as of each fiscal year end. In addition, within 90 days after the end of each fiscal year of the Investment Fund or as soon as practicable thereafter, the Investment Fund shall send a report to each person who was a Member at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Member of his or her federal and state

income tax returns and a report of the investment activities of the Investment Fund during such year.

6. An Investment Fund will maintain and preserve, for the life of the Investment Fund and at least six years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements and annual reports of the Investment Fund to be provided to its Members, and agrees that all such records will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017-13893 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81029; File No. SR-ICC-2017-008]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the Clearance of Additional Credit Default Swap Contracts

June 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on June 13, 2017, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Rulebook (the "Rules") to provide for the clearance of additional Standard Emerging Market Sovereign CDS contracts (collectively, "EM Contracts").

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

##### A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adopt rules that will provide the basis for ICC to clear additional credit default swap contracts. ICC believes the addition of these contracts will benefit the market for credit default swaps by providing market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to clearing house rules. Clearing of the additional EM Contracts will not require any changes to ICC's Risk Management Framework or other policies and procedures constituting rules within the meaning of the Act.

ICC proposes amending Subchapter 26D of its Rules to provide for the clearance of additional EM Contracts, specifically the Kingdom of Saudi Arabia and the Republic of Kazakhstan. These additional EM Contracts have terms consistent with the other EM Contracts approved for clearing at ICC and governed by Subchapter 26D of the Rules. Minor revisions to Subchapter 26D (Standard Emerging Market Sovereign ("SES") Single Name) are made to provide for clearing the additional EM Contracts. Specifically, in Rule 26D-102 (Definitions), "Eligible SES Reference Entities" is modified to include the Kingdom of Saudi Arabia and the Republic of Kazakhstan in the list of specific Eligible SES Reference Entities to be cleared by ICC.

Section 17A(b)(3)(F) of the Act<sup>3</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. The additional EM

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(F).



Contracts are similar to the EM Contracts currently cleared by ICC, and will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures. Clearing of the additional EM Contracts will allow market participants an increased ability to manage risk and ensure the safeguarding of margin assets pursuant to clearing house rules. ICC believes that acceptance of the new EM Contracts, on the terms and conditions set out in the Rules, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>4</sup>

Clearing of the additional EM Contracts will also satisfy the requirements of Rule 17Ad-22.<sup>5</sup> In particular, in terms of financial resources, ICC will apply its existing initial margin methodology to the additional contracts. ICC believes that this model will provide sufficient initial margin requirements to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad-22(b)(2).<sup>6</sup> In addition, ICC believes its Guaranty Fund, under its existing methodology, will, together with the required initial margin, provide sufficient financial resources to support the clearing of the additional contracts consistent with the requirements of Rule 17Ad-22(b)(3).<sup>7</sup> ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the additional contracts, consistent with the requirements of Rule 17Ad-22(d)(4),<sup>8</sup> as the new contracts are substantially the same from an operational perspective as existing contracts. Similarly, ICC will use its existing settlement procedures and account structures for the new contracts, consistent with the requirements of Rule 17Ad-22(d)(5), (12) and (15)<sup>9</sup> as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures. ICC determined to accept the additional EM Contracts for clearing in accordance with its governance process, which included review of the contracts and

related risk management considerations by the ICC Risk Committee and approval by its Board. These governance arrangements are consistent with the requirements of Rule 17Ad-22(d)(8).<sup>10</sup> Finally, ICC will apply its existing default management policies and procedures for the additional EM Contracts. ICC believes that these procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad-22(d)(11).<sup>11</sup>

#### *B. Clearing Agency's Statement on Burden on Competition*

The additional EM Contracts will be available to all ICC participants for clearing. The clearing of these additional EM Contracts by ICC does not preclude the offering of the additional EM Contracts for clearing by other market participants. Accordingly, ICC does not believe that clearance of the additional EM Contracts will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

### **III. Date of Effectiveness of the Proposed Rule and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2017-008 on the subject line.

#### *Paper Comments*

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICC-2017-008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at <https://www.theice.com/clear-credit/regulation>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2017-008 and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017-13899 Filed 6-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 17 CFR 240.17Ad-22.

<sup>6</sup> 17 CFR 240.17Ad-22(b)(2).

<sup>7</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>8</sup> 17 CFR 240.17Ad-22(d)(4).

<sup>9</sup> 17 CFR 240.17Ad-22(d)(5), (12) and (15).

<sup>10</sup> 17 CFR 240.17Ad-22(d)(8).

<sup>11</sup> 17 CFR 240.17Ad-22(d)(11).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-424, OMB Control No. 3235-0473]

**Proposed Collection; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736

*Extension:*

Rule 17Ad-3(b)

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 17Ad-3(b) (17 CFR 240.17Ad-3(b)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17Ad-3(b) requires registered transfer agents to send a copy of the written notice required under Rule 17Ad-2(c), (d), and (h) to the chief executive officer of each issuer for which the transfer agent acts when it has failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad-2(a), or to process at least 75% of all items in accordance with the requirements of Rule 17Ad-2(b), for two consecutive months. The issuer may use the information contained in the notices: (1) As an early warning of the transfer agent's non-compliance with the Commission's minimum performance standards regarding registered transfer agents; and (2) to become aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer's issues. If the issuer does not receive notice of a registered transfer agent's failure to comply with the Commission's minimum performance standards then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent. Pursuant to Rule 17Ad-3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad-2 will only be required to send a copy of that notice to issuers for which it acts when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items.

The Commission estimates that only one transfer agent will meet the

requirements of Rule 17Ad-3(b) each year. If a transfer agent fails to meet those turnaround and processing requirements under 17Ad-3(b), it would simply send a copy of the notice to its issuer-clients that had already been produced for the Commission pursuant to Rule 17Ad-2(c) or (d). The Commission estimates the requirement will take each respondent approximately four hours to complete. The Commission staff estimates that compliance staff work at registered transfer agents to comply with the third party disclosure requirement will result in an internal cost of compliance, at an estimated hourly wage of \$283, of \$1,128 per year per transfer agent (4 hours × \$283 per hour = \$1,128 per year). Therefore, the aggregate annual internal cost of compliance for the approximately one registered transfer agent each year to comply with Rule 17Ad-3(b) is also \$1,128. There are no external labor costs associated with sending the notice to issuers.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: June 27, 2017.

**Robert W. Errett,***Deputy Secretary.*

[FR Doc. 2017-13894 Filed 6-30-17; 8:45 am]

**BILLING CODE P****SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81030; File No. SR-ICC-2017-009]

**Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the Clearance of Additional Credit Default Swap Contracts**

June 27, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> notice is hereby given that on June 13, 2017, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been primarily prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change**

The principal purpose of the proposed rule change is to revise the ICC Rulebook (the "Rules") to provide for the clearance of Standard Asia Corporate Single Name CDS contracts (collectively, "STASC Contracts"), Standard Asia Financial Corporate Single Name CDS contracts (collectively, "STASFC Contracts"), and Standard Emerging Market Corporate Single Name CDS contracts (collectively, "STEMC Contracts").

**II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

**A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to adopt rules that will provide the basis for ICC to clear additional credit default swap contracts.

<sup>1</sup> 15 U.S.C. 78s(b)(1).<sup>2</sup> 17 CFR 240.19b-4.

Specifically, ICC proposes amending Chapter 26 of the ICC Rules to add Subchapters 26O, 26P, and 26Q to provide for the clearance of STASC, STASFC, and STEMC Contracts, respectively. ICC believes the addition of these contracts will benefit the market for credit default swaps by providing market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to clearing house rules. Clearing of the STASC, STASFC, and STEMC Contracts will not require any changes to ICC's Risk Management Framework or other policies and procedures constituting rules within the meaning of the Act.

STASC Contracts have similar terms to the Standard European Corporate Single Name CDS contracts ("STEC Contracts") and Standard Australian Corporate Single Name CDS contracts ("STAC Contracts") currently cleared by ICC and governed by Subchapters 26G and 26M of the ICC Rules, respectively. Accordingly, the proposed rules found in Subchapter 26O largely mirror the ICC Rules for STEC Contracts in Subchapter 26G and STAC Contracts in Subchapter 26M, with certain modifications that reflect differences in terms and market conventions between those contracts and STASC Contracts. STASC Contracts will be denominated in United States Dollars.

ICC Rule 26O-102 (Definitions) sets forth the definitions used for the STAC Contracts. The definitions are substantially the same as the definitions found in Subchapters 26G and 26M of the ICC Rules, other than certain conforming changes. ICC Rules 26O-203 (Restriction on Activity), 26O-206 (Notices Required of Participants with respect to STASC Contracts), 26O-303 (STASC Contract Adjustments), 26O-309 (Acceptance of STASC Contracts by ICE Clear Credit), 26O-315 (Terms of the Cleared STASC Contract), 26O-316 (Relevant Physical Settlement Matrix Updates), 26O-502 (Specified Actions), and 26O-616 (Contract Modification) reflect or incorporate the basic contract specifications for STASC Contracts and are substantially the same as under Subchapters 26G and 26M of the ICC Rules.

STASFC Contracts have similar terms to the Standard European Financial Corporate Single Name CDS contracts ("STEF Contracts") and Standard Australian Financial Corporate Single Name CDS contracts ("STAF Contracts") currently cleared by ICC and governed by Subchapters 26H and 26N of the ICC Rules, respectively. Accordingly, the proposed rules found in Subchapter 26P largely mirror the

ICC Rules for STEFC Contracts in Subchapter 26H and STAF Contracts in Subchapter 26N, with certain modifications that reflect differences in terms and market conventions between those contracts and STASFC Contracts. STASFC Contracts will be denominated in United States Dollars.

ICC Rule 26P-102 (Definitions) sets forth the definitions used for the STASFC Contracts. The definitions are substantially the same as the definitions found in Subchapters 26H and 26N of the ICC Rules, other than certain conforming changes. ICC Rules 26P-203 (Restriction on Activity), 26P-206 (Notices Required of Participants with respect to STASFC Contracts), 26P-303 (STASFC Contract Adjustments), 26P-309 (Acceptance of STASFC Contracts by ICE Clear Credit), 26P-315 (Terms of the Cleared STASFC Contract), 26P-316 (Relevant Physical Settlement Matrix Updates), 26P-502 (Specified Actions), and 26P-616 (Contract Modification) reflect or incorporate the basic contract specifications for STASFC Contracts and are substantially the same as under Subchapters 26H and 26N of the ICC Rules.

STEMC Contracts also have similar terms to the STEC and STAC Contracts currently cleared by ICC and governed by Subchapters 26G and 26M of the ICC Rules, respectively. Accordingly, the proposed rules found in Subchapter 26Q largely mirror the ICC Rules for STEC Contracts in Subchapter 26G and STAC Contracts in Subchapter 26M, with certain modifications that reflect differences in terms and market conventions between those contracts and STEMC Contracts. STEMC Contracts will be denominated in United States Dollars.

ICC Rule 26Q-102 (Definitions) sets forth the definitions used for the STEMC Contracts. The definitions are substantially the same as the definitions found in Subchapters 26G and 26M of the ICC Rules, other than certain conforming changes. ICC Rules 26Q-203 (Restriction on Activity), 26Q-206 (Notices Required of Participants with respect to STEMC Contracts), 26Q-303 (STEMC Contract Adjustments), 26Q-309 (Acceptance of STEMC Contracts by ICE Clear Credit), 26Q-315 (Terms of the Cleared STEMC Contract), 26Q-316 (Relevant Physical Settlement Matrix Updates), 26Q-502 (Specified Actions), and 26Q-616 (Contract Modification) reflect or incorporate the basic contract specifications for STEMC Contracts and are substantially the same as under Subchapters 26G and 26M of the ICC Rules.

Section 17A(b)(3)(F) of the Act<sup>3</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. As described above, the STASC, STASFC, and STEMC Contracts proposed for clearing are similar to contracts currently cleared by ICC, and will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures. Clearing of the STASC, STASFC, and STEMC Contracts will allow market participants an increased ability to manage risk and ensure the safeguarding of margin assets pursuant to clearing house rules. ICC believes that acceptance of the STASC, STASFC, and STEMC Contracts, on the terms and conditions set out in the Rules, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>4</sup>

Clearing of the STASC, STASFC, and STEMC Contracts will also satisfy the requirements of Rule 17Ad-22.<sup>5</sup> In particular, in terms of financial resources, ICC will apply its existing initial margin methodology to the additional contracts. ICC believes that this model will provide sufficient initial margin requirements to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad-22(b)(2).<sup>6</sup> In addition, ICC believes its Guaranty Fund, under its existing methodology, will, together with the required initial margin, provide sufficient financial resources to support the clearing of the additional contracts consistent with the requirements of Rule 17Ad-22(b)(3).<sup>7</sup> ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the additional contracts, consistent with the requirements of Rule 17Ad-22(d)(4),<sup>8</sup> as the new contracts are substantially the same from an

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 17 CFR 240.17Ad-22.

<sup>6</sup> 17 CFR 240.17Ad-22(b)(2).

<sup>7</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>8</sup> 17 CFR 240.17Ad-22(d)(4).

operational perspective as existing contracts. Similarly, ICC will use its existing settlement procedures and account structures for the new contracts, consistent with the requirements of Rule 17Ad-22(d)(5), (12) and (15)<sup>9</sup> as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures. ICC determined to accept the STASC, STASFC, and STEM C Contracts for clearing in accordance with its governance process, which included review of the contracts and related risk management considerations by the ICC Risk Committee and approval by its Board. These governance arrangements are consistent with the requirements of Rule 17Ad-22(d)(8).<sup>10</sup> Finally, ICC will apply its existing default management policies and procedures for the STASC, STASFC, and STEM C Contracts. ICC believes that these procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad-22(d)(11).<sup>11</sup>

#### *B. Clearing Agency's Statement on Burden on Competition*

The STASC, STASFC, and STEM C Contracts will be available to all ICC participants for clearing. The clearing of these STASC, STASFC, and STEM C Contracts by ICC does not preclude the offering of the STASC, STASFC, and STEM C Contracts for clearing by other market participants. Accordingly, ICC does not believe that clearance of the STASC, STASFC, and STEM C Contracts will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Clearing Agency's Statement on Comments on the Proposed Rule Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period

to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2017-009 on the subject line.

##### *Paper Comments*

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ICC-2017-009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at <https://www.theice.com/clear-credit/regulation>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

you wish to make available publicly. All submissions should refer to File Number SR-ICC-2017-009 and should be submitted on or before July 24, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017-13900 Filed 6-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #15189 and #15190; NEBRASKA Disaster #NE-00068]**

#### **Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Nebraska**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA-4321-DR), dated 06/26/2017.

*Incident:* Severe Winter Storm and Straight-line Winds.

*Incident Period:* 04/29/2017 through 05/03/2017.

**DATES:** Effective 06/26/2017.

*Physical Loan Application Deadline Date:* 08/25/2017.

*Economic Injury (EIDL) Loan Application Deadline Date:* 03/26/2018.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 06/26/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Blaine, Custer, Furnas, Garfield, Gosper, Holt, Loup, Red Willow, Rock, Valley  
The Interest Rates are:

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>9</sup> 17 CFR 240.17Ad-22(d)(5), (12) and (15).

<sup>10</sup> 17 CFR 240.17Ad-22(d)(8).

<sup>11</sup> 17 CFR 240.17Ad-22(d)(11).

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere .....	2.500
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere .....	2.500

The number assigned to this disaster for physical damage is 15189B and for economic injury is 15190B.

(Catalog of Federal Domestic Assistance Number 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2017-13916 Filed 6-30-17; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

[Public Notice 10052]

### Cultural Property Advisory Committee; Notice of Meeting

**AGENCY:** Department of State.

**ACTION:** Notice of a meeting.

**SUMMARY:** The Department of State is issuing this notice to announce the location, date, time and agenda for the next meeting of the Cultural Property Advisory Committee.

**DATES AND TIME:** Wednesday, July 19 and Thursday, July 20, 2017, 11:00 a.m. to 5:00 p.m. (EDT). An open session of the Cultural Property Advisory Committee will be held on July 19, 2017, 1:00 p.m. to 2:00 p.m. (EDT). It will last approximately one hour. Participants will participate electronically. Those who wish to participate in the open session should register at <http://culturalheritage.state.gov>, which will provide information on how to access the meeting no later than July 10, 2017.

*Written Comments:* must be received no later than July 10, 2017, at 11:59 p.m. (EDT).

**ADDRESSES:** The meeting will be held at the U.S. Department of State, Annex 5, 2200 C St. NW., Washington, DC. Participants will join the meeting electronically, with instructions provided at <http://culturalheritage.state.gov> no later than July 10, 2017.

*Comments:* Methods of written comment submission are as follows:

- *Electronic Comments:* Use <http://www.regulations.gov>, enter the docket DOS-2017-0028, and follow the prompts to submit comments.

- *Paper Comments:* Only send paper comments that contain privileged or confidential information (within the meaning of 19 U.S.C. 2605(i)(1)) to: U.S. Department of State, Bureau of Educational and Cultural Affairs—Cultural Heritage Center, SA-5 Floor 5, 2200 C St. NW., Washington, DC 20522-0505.

**FOR FURTHER INFORMATION CONTACT:** To pre-register for the meeting or for general questions concerning the meeting, contact the Bureau of Educational and Cultural Affairs—Cultural Heritage Center by phone, (202) 632-6301, or mail: [CulProp@state.gov](mailto:CulProp@state.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 306(e)(2) of the Convention on Cultural Property Implementation Act (5 U.S.C. 2601 *et seq.*) (“the Act”), the Acting Assistant Secretary of State for Educational and Cultural Affairs calls a meeting of the Cultural Property Advisory Committee (“the Committee”). The Committee’s responsibilities are carried out in accordance with provisions of the Act. A portion of this meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605.

*Meeting Agenda:* The Committee will review the request by the Government of Libya seeking import restrictions on archaeological and ethnological material.

*Open Session Participation:* An open session of the meeting to receive oral public comments on the Libya request will be held Wednesday, July 19, 2017, from 1:00 p.m. to 2:00 p.m. (EDT). The text of the Act and a public summary of the Government of Libya’s request may be found at <http://culturalheritage.state.gov>.

If you wish to make an oral presentation at the meeting, you must request to be scheduled by the above-mentioned date and time, and you must submit a written summary of your oral presentation, ensuring that it is received no later than July 10, 2017, at 11:59 p.m. (EDT), via the [Regulations.gov](http://www.regulations.gov) Web site listed in the “Comments” section above. Oral comments will be limited to five (5) minutes to allow time for questions from members of the Committee. All oral comments must relate specifically to matters referred to in 19 U.S.C. 2602(a)(1), with respect to which the Committee makes its findings and recommendations. Oral presentation to the Committee may be requested but, due to time constraints, is not guaranteed.

*Written Comments:* If you do not wish to make oral comments but still wish to make your views known, you may submit written comments for the

Committee to consider. Written comments from outside interested parties regarding the Libya request must be received no later than July 10, 2017, at 11:59 p.m. (EDT). Your written comments should relate specifically to the matters referred to in 19 U.S.C. 2602(a)(1).

**Mark Taplin,**

*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.*

[FR Doc. 2017-13933 Filed 6-30-17; 8:45 am]

**BILLING CODE 4710-05-P**

## SURFACE TRANSPORTATION BOARD

[Docket No. NOR 38302S; Docket No. NOR 38376S]

**United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al.; United States Department of Energy and United States Department of Defense v. Aberdeen & Rockfish Railroad Company, et al.**

**AGENCY:** Surface Transportation Board.

**ACTION:** Final Decision.

**SUMMARY:** The Surface Transportation Board (Board) has approved the settlement agreement (Agreement) proposed by the United States Department of Energy and the United States Department of Defense (together, the Government) and Norfolk Southern Railway Company (NSR); prescribed the Agreement’s rate update methodologies (as slightly amended), maximum revenue-to-variable cost (R/VC) ratios, and rates; dismissed NSR as a defendant in these proceedings; extinguished all of NSR’s liability (including that of its predecessors and subsidiaries) for reparations; relieved NSR from any further requirement to participate in these proceedings, except in response to a properly issued subpoena under the Board’s rules; and continued to hold the proceedings in abeyance pending further settlement negotiations.

**DATES:** Effective Date: The decision is effective on July 28, 2017.

**FOR FURTHER INFORMATION CONTACT:** Nathaniel Bawcombe, (202) 245-0376. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** In a decision served on June 28, 2017, the Board, under 49 U.S.C. 10704, approved the Agreement negotiated by the Government and NSR to settle these rate

reasonableness complaints as between them only. The Agreement—which applies broadly to the nationwide movement on NSR’s rail lines of irradiated spent fuel, parts, and constituents; spent fuel moving from foreign countries to the United States for disposal; empty casks; radioactive wastes; and buffer and escort cars—will be implemented by NSR tendering rate quotations to the Government pursuant to 49 U.S.C. 10721.

In addition, the Board: (1) Uprescribed the Agreement’s rate update methodologies (as slightly amended), maximum R/VC ratios, and rates; (2) dismissed NSR as a defendant in these proceedings; (3) extinguished all of NSR’s liability (including that of its predecessors and subsidiaries) for reparations; (4) relieved NSR from any further requirement to participate in these proceedings, except in response to a properly issued subpoena under the Board’s rules; and (5) continued to hold these proceedings in abeyance pending further settlement negotiations.

The Board’s decision is available on its Web site at [www.stb.gov](http://www.stb.gov).

Decided: June 26, 2017.

By the Board, Board Members Begeman, Elliott, and Miller.

**Tammy Lowery,**  
Clearance Clerk.

[FR Doc. 2017–13966 Filed 6–30–17; 8:45 am]

**BILLING CODE 4915–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Actions Taken at June 16, 2017, Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** As part of its regular business meeting held on June 16, 2017, in Entriiken, Pennsylvania, the Commission took the following actions: (1) Approved or tabled the applications of certain water resources projects; and (2) took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

**DATES:** June 16, 2017.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel, telephone: 717–238–0423, ext. 1312; fax: 717–238–2436; [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries may be sent to the above address. See also Commission Web site at [www.srbc.net](http://www.srbc.net).

**SUPPLEMENTARY INFORMATION:** In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: (1) Election of the member from the Federal Government as Chair of the Commission and the member from the State of New York as the Vice Chair of the Commission for the period of July 1, 2017, to June 30, 2018; (2) adoption of FY2018 Regulatory Program Fee Schedule, effective July 1, 2017; (3) adoption of a preliminary FY2019 budget for the period July 1, 2018, to June 30, 2019; (4) authorization to execute a treasury management services agreement with First National Bank; (5) approval/ratification of a grant agreement, two contracts and a bank loan payoff; (6) approval of a rulemaking action to clarify application requirements and standards for review of projects, amend the rules dealing with the mitigation of consumptive uses, add a subpart to provide for registration of grandfathered projects and revise requirements dealing with hearings and enforcement actions; (7) denied a request for waiver from EOG Resources Inc.; (8) tabled a request for waiver from Middletown Borough; (9) approval to extend the term of an emergency certificate with Susquehanna Nuclear, LLC until terminated by the Executive Director; (10) adoption of the FY2018–2019 Water Resources Program; (11) adoption of amendments to the *Comprehensive Plan for the Water Resources of the Susquehanna River Basin*; and (12) a report on delegated settlements with the following project sponsors, pursuant to SRBC Resolution 2014–15: Albany International Corp., in the amount of \$8,500; and Tanglewood Manor, Inc., in the amount of \$2,500.

### Project Applications Approved

The Commission approved the following project applications:

1. *Project Sponsor and Facility:* Town of Big Flats, Chemung County, NY. Groundwater withdrawal of up to 0.778 mgd (30-day average) from Well 1–1.

2. *Project Sponsor and Facility:* Michael and Sandra Buhler (Bennett Branch Sinnemahoning Creek), Huston Township, Clearfield County, PA. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20130603).

3. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, PA. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20130303).

4. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River), Wysox Township, Bradford County, PA. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20130304).

5. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Wyalusing Creek), Rush Township, Susquehanna County, PA. Surface water withdrawal of up to 0.715 mgd (peak day).

6. *Project Sponsor and Facility:* DS Services of America, Inc., Clay Township, Lancaster County, PA. Groundwater withdrawal of up to 0.028 mgd (30-day average) from existing Well 4.

7. *Project Sponsor and Facility:* DS Services of America, Inc., Clay Township, Lancaster County, PA. Groundwater withdrawal of up to 0.042 mgd (30-day average) from existing Well 5.

8. *Project Sponsor and Facility:* Ephrata Area Joint Authority, Ephrata Borough, Lancaster County, PA. Modification to request a combined withdrawal limit for Well 1, Cocalico Creek, and Mountain Home Springs of 2.310 mgd (30-day average) (Docket No. 20110902).

9. *Project Sponsor and Facility:* Equipment Transport, LLC (Susquehanna River), Great Bend Township, Susquehanna County, PA. Renewal of surface water withdrawal of up to 1.000 mgd (peak day) (Docket No. 20130613).

10. *Project Sponsor and Facility:* Kraft Heinz Foods Company, Town of Campbell, Steuben County, NY. Renewal of groundwater withdrawal of up to 0.299 mgd (30-day average) from Well 3 (Docket No. 19860203).

11. *Project Sponsor and Facility:* Mount Joy Borough Authority, Mount Joy Borough, Lancaster County, PA. Modification to request a reduction of the maximum instantaneous rate for Well 3 from the previously approved rate of 1,403 gpm to 778 gpm and revise the passby to be consistent with current Commission policy (Docket No. 20070607). The previously approved withdrawal rate of 1.020 mgd (30-day average) will remain unchanged.

12. *Project Sponsor:* P.H. Glatfelter Company. *Project Facility:* Paper/Pulp Mill and Cogen Operations (Codorus Creek), Spring Grove Borough, York County, PA. Renewal of surface water withdrawal of up to 16.000 mgd (peak day) (Docket No. 19860602).

13. *Project Sponsor:* P.H. Glatfelter Company. *Project Facility:* Paper/Pulp Mill and Cogen Operations, Spring Grove Borough, York County, PA. Renewal of consumptive water use of up

to 0.900 mgd (peak day) (Docket No. 19860602).

14. *Project Sponsor and Facility:* Rausch Creek Land, L.P., Porter Township, Schuylkill County, PA. Renewal of groundwater withdrawal of up to 0.100 mgd (30-day average) from Pit #21 (Docket No. 20120612).

15. *Project Sponsor and Facility:* Repsol Oil & Gas USA, LLC (Towanda Creek), Franklin Township, Bradford County, PA. Renewal of surface water withdrawal of up to 1.000 mgd (peak day) (Docket No. 20130311).

16. *Project Sponsor and Facility:* Spring Township Water Authority, Spring Township, Centre County, PA. Groundwater withdrawal of up to 0.499 mgd (30-day average) from Cerro Well.

17. *Project Sponsor and Facility:* Warren Marcellus LLC (Susquehanna River), Washington Township, Wyoming County, PA. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20130305).

#### Project Applications Tabled

The Commission tabled action on the following project applications:

1. *Project Sponsor:* Talen Energy Corporation. *Project Facility:* Royal Manchester Golf Links, East Manchester Township, York County, PA. Minor modification to add new sources (Wells PW-1 and PW-6) to existing consumptive use approval (Docket No. 20060604). The previously approved consumptive use quantity of 0.360 mgd (peak day) will remain unchanged.

2. *Project Sponsor:* Talen Energy Corporation. *Project Facility:* Royal Manchester Golf Links, East Manchester Township, York County, PA. Application for groundwater withdrawal of up to 0.145 mgd (30-day average) from Well PW-1.

3. *Project Sponsor:* Talen Energy Corporation. *Project Facility:* Royal Manchester Golf Links, East Manchester Township, York County, PA. Application for groundwater withdrawal of up to 0.298 mgd (30-day average) from Well PW-6.

4. *Project Sponsor and Facility:* Village of Waverly, Tioga County, NY. Application for groundwater withdrawal of up to 0.320 mgd (30-day average) from Well 1.

5. *Project Sponsor and Facility:* Village of Waverly, Tioga County, NY. Application for groundwater withdrawal of up to 0.480 mgd (30-day average) from Well 2.

6. *Project Sponsor and Facility:* Village of Waverly, Tioga County, NY. Application for groundwater withdrawal of up to 0.470 mgd (30-day average) from Well 3.

#### Project Applications Approved Involving a Diversion

1. *Project Sponsor and Facility:* City of DuBois, Union Township, Clearfield County, PA. Modification to the diversion from Anderson Creek Reservoir by expansion of the existing service area as a result of interconnection and bulk water supply to Falls Creek Borough Municipal Authority (Docket No. 20060304).

2. *Project Sponsor:* Seneca Resources Corporation. *Project Facility:* Impoundment 1, receiving groundwater from Seneca Resources Corporation Wells 5H and 6H and Clermont Wells 1, 2, North 2, 3, and 4, Norwich and Sergeant Townships, McKean County, PA. Modification to add four additional sources (Clermont North Well 1, Clermont North Well 3, Clermont South Well 7, and Clermont South Well 10) and increase the into-basin diversion from the Ohio River Basin by an additional 1.044 mgd (peak day), for a total of up to 3.021 mgd (peak day) (Docket No. 20141216).

**Authority:** Pub. L. 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: June 27, 2017.

**Stephanie L. Richardson,**  
*Secretary to the Commission.*

[FR Doc. 2017-13914 Filed 6-30-17; 8:45 am]

**BILLING CODE 7040-01-P**

#### NUCLEAR REGULATORY COMMISSION

##### Tennessee Valley Authority

[Docket No. 52-047-ESP; ASLBP No. 17-954-01-ESP-BD02]

##### Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see, e.g.*, 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

##### Tennessee Valley Authority

*Clinch River Nuclear Site Early Site Permit Application*

This Board is being established pursuant to a Notice of Hearing published in the **Federal Register**, *see* 82 FR 16,436 (Apr. 4, 2017), regarding the May 12, 2016 application filed by Tennessee Valley Authority (TVA), pursuant to subpart A of 10 CFR part 52, for an early site permit for the Clinch

River Nuclear Site located in Oak Ridge, Tennessee. Because TVA seeks an early site permit, a "mandatory hearing" will be conducted. *See* 42 U.S.C. 2239(a)(1)(A); 10 CFR 2.104.

The Board is comprised of the following Administrative Judges:

Paul S. Ryerson, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001;

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001;

Dr. Sue H. Abreu, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Dated: June 26, 2017.

**E. Roy Hawkens,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Rockville, Maryland.*

[FR Doc. 2017-13942 Filed 6-30-17; 8:45 am]

**BILLING CODE 7590-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### Termination of the Preparation of an Air Tour Management Plan and Environmental Assessment for Big Cypress National Preserve, Florida

**AGENCY:** Federal Aviation Administration, Department of Transportation.

**ACTION:** Notice of Termination of the Preparation of Air Tour Management Plan and Environmental Assessment.

**SUMMARY:** The Federal Aviation Administration (FAA), in cooperation with the National Park Service (NPS), announces that it will no longer prepare an Air Tour Management Plan (ATMP) and Environmental Assessment (EA) for commercial air tour operations over Big Cypress National Preserve in Florida. The FAA and NPS have stopped work on preparation of the ATMP and EA based upon a provision included in the FAA Modernization and Reform Act of 2012 that allowed the agencies and air tour operator(s) to enter into a voluntary agreement as an alternative to an ATMP.

**FOR FURTHER INFORMATION CONTACT:** Keith Lusk, Program Manager, AWP-1SP, Federal Aviation Administration, Western-Pacific Region, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone: (310) 725-3808.



**SUPPLEMENTARY INFORMATION:** In an April 19, 2011 **Federal Register** notice (76 FR 21938), the FAA in cooperation with the National Park Service (NPS) provided notice of its intent to develop an EA for the ATMP at Big Cypress National Preserve, pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in 14 CFR part 136, subpart B, National Parks Air Tour Management. The ATMP process for Big Cypress National Preserve was initiated based on receipt of an application for operating authority from an existing commercial air tour operator to conduct commercial air tour operations over this park unit. In accordance with NPATMA and based on the existing level of operations at the time of the application, the FAA issued interim operating authority (IOA) to the commercial air tour operator to conduct an annual total of 1,260 commercial air tours over the park until such time as an ATMP was developed. The FAA and NPS began preparing an EA to comply with the National Environmental Policy Act (Pub. L. 91–190), which requires Federal agencies to consider the environmental impacts associated with a major federal action.

The FAA Modernization and Reform Act of 2012 (Pub. L. 112–95) amended various provisions of NPATMA. One provision provided that as an alternative to an ATMP, to manage commercial air tour operations over a national park, the NPS and the FAA, may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has IOA) that has applied to conduct commercial air tour operations over a national park. The FAA and NPS entered into voluntary agreements with one existing and one new entrant commercial air tour operator for tours over Big Cypress National Preserve. The voluntary agreements became effective in December 2015. Copies of the voluntary agreements can be found at: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan/park\\_specific\\_plans/big\\_cypress/](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/park_specific_plans/big_cypress/).

As the agencies and the operators entered into voluntary agreements for commercial air tour operations over Big Cypress National Preserve, an ATMP is no longer required. Therefore, the FAA, in cooperation with the NPS, has stopped work and discontinued the preparation of the ATMP and EA for Big Cypress National Preserve.

Issued in Lawndale, California, on June 26, 2017.

**Keith Lusk,**

*Program Manager, Special Programs Staff,  
Western-Pacific Region.*

[FR Doc. 2017–13992 Filed 6–30–17; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0384]

#### Qualification of Drivers; Exemption Applications; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for five individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

**DATES:** The renewed exemptions were effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before August 2, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0384 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 20590–0001.

- **Hand Delivery:** 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.

- **Fax:** 1–202–493–2251.

**Instructions:** Each submission must include the Agency name and the docket number(s) for this notice. 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 for further information.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or 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., e.t., Monday through Friday, except Federal holidays. The FDMS 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 online.

**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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

#### I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person:

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The five individuals listed in this notice have requested renewal of their exemptions from the hearing standard in 49 CFR 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

## II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

## III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the twelve applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement (80 FR 57032; 80 FR 60747). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The five drivers in this notice remain in good standing with the Agency and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49

U.S.C. 31136(e) and 31315, each driver has received a renewed exemption.

As of June 10, 2017, the following five drivers have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (78 FR 22708).

Thomas Carr (PA)  
Robert Knapp (WI)  
Keith Miller (PA)  
Jeffrey Webber (OK)  
Michael Wilkes (MA)

The drivers were included in FMCSA-2014-0384. The exemptions were effective on June 10, 2017, and will expire on June 10, 2019.

## IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA. In addition, the driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## V. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in 49 CFR 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: June 22, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2017-13931 Filed 6-30-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2017-0031]

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 49 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on May 31, 2017. The exemptions expire on May 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-113, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or 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., e.t., Monday through Friday, except Federal holidays.

*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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

##### II. Background

On April 27, 2017, FMCSA published a notice of receipt of Federal diabetes exemption applications from 50 individuals and requested comments from the public (82 FR 19438). The

public comment period closed on May 30, 2017, and two comments were received.

FMCSA has evaluated the eligibility of the 50 applicants and determined that granting the exemptions to 49 of these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

#### *Diabetes Mellitus and Driving Experience of the Applicants*

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 50 applicants have had ITDM over a range of 1 to 28 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the April 27, 2017, **Federal Register** notice and they will not be repeated in this notice.

### III. Discussion of Comments

FMCSA received two comments in this proceeding. Charles W. Smith, who is included in this docket, submitted a comment asking if more information was needed for his exemption. Mr. Smith had a complete application at the time he was published in the **Federal Register** for the 30-day comment period. Since no negative comments were received regarding his case, he was granted an exemption effective May 31, 2017. Robert E. Branigan, Jr., who is also included on this docket, requested a document stating he is now exempt from the diabetes standard. An exemption was granted and mailed to him on May 31, 2017.

### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

### V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual

provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

### VI. Conclusion

Based upon its evaluation of the 50 exemption applications, FMCSA exempts the following 49 drivers from the diabetes requirement in 49 CFR 391.41(b)(3):

Ronald J. Boe (MN)  
 Robert E. Branigan, Jr. (PA)  
 Wayne P. Cashion (TN)  
 Randall J. Claeys (OR)  
 Ronald G. Dalle (NY)  
 Vincenzo Dellisola (NY)  
 Gary L.A. Driggers (GA)  
 Daniel L. Fernberg (WI)  
 Steven A. Grover (CO)  
 Kenneth L. Hawthorne (MS)  
 Matthew A. Huebner (IL)  
 James C. Hylton (VA)  
 Michael A. Jacobson (IA)  
 David C. Jossi (ID)  
 Randy J. Kean (KY)  
 Edward T. Klauck (MO)  
 Carl R. Knapp (WA)  
 Robert E. Knox (OR)  
 Oris Lormeus (NY)  
 James V. Maiorana (NY)  
 Jerry S. Malloy (OK)  
 James E. Mann, Jr. (NC)  
 Tremaine E. Mathews (TX)  
 Archie D. McCracken (NC)  
 William M. Nafus (PA)  
 David S.E. Patton (AR)  
 Andrew J. Peard (NE)  
 Ronald C. Pennyman (GA)  
 Matthew B. Phillips (IN)  
 Larry P. Pruitt (NC)  
 Jose L. Ramos (NM)  
 Danny L. Russell (NH)  
 Ronald M. Salas (CA)  
 Roger W. Senff (WY)  
 David M. Seswick (OH)  
 Charles W. Smith (VA)  
 Jeffery A. Stone (IN)  
 William C. Suozzo (PA)  
 Sean M. Sweeney (NJ)  
 Thomas W. Szaloy (NM)  
 John A. Tagtgren (MN)  
 Michael E. Thompson (WA)  
 John A. Wargo (WV)  
 Michael E. Weideman (SD)  
 Monty A. Weigum (ND)  
 Zachary B.J. Weihart (WI)  
 James M. Wenzel (MN)  
 Steven G. Wilcox (CA)

Nathaniel D. Winston (VA)

Gerald G. Blacklock (PA), who was included in the request for comments notice published on April 27, 2017 (82 FR 19438), ceased using insulin during the comment period. As a result, he no longer requires an exemption to operate in interstate commerce and was not issued one by the Agency.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 22, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2017-13929 Filed 6-30-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2017-0056]

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on May 23, 2017, CSX Transportation (CSX) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2017-0056.

*Applicant:* CSX Transportation, Mr. Harry C. Rhoades, Director PMO C&S, 500 Water Street, Speed Code J-350, Jacksonville, FL 32202.

CSX seeks to modify the signal system between milepost (MP) QHE-0.00 to MP QHE-2.70, and MP QHX-0.00 to MP QHX-1.20, and MP QHW-0.00 to MP QHW-1.20, on the Baltimore Division, Philadelphia Subdivision, Philadelphia, PA.

CSX proposes to discontinue cab signals; install electronic track circuits, frame communication circuits, Positive Train Control (PTC) compatible

microprocessor based vital logic controllers, and replace wayside signals.

The reason CSX gives for the proposed modification is that it will be done in conjunction with other modifications to the signal system to prepare for PTC implementation.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 17, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can

be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety Chief Safety Officer.*

[FR Doc. 2017-13975 Filed 6-30-17; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

**AGENCY:** ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

**ACTION:** Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITS PAC) will hold a meeting on July 18 & 19, 2017, from 8:30 a.m. to 3:00 p.m. (EDT) in the Doubletree Crystal City Hotel, 300 Army Navy Drive, Arlington, VA 22202.

The ITS PAC, established under Section 5305 of Public Law 109-59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-established under Section 6007 of Public Law 114-94, Fixing America's Surface Transportation (FAST) Act, December 4, 2015, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITS PAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the meeting tentative agenda: (1) Welcome, (2) Subcommittee Breakout Sessions and Updates to Committee, (3) Connected Vehicle Discussion, (4) Discussion of Potential Advice Memorandum Topics, (5) Summary and Adjourn.

The meeting will be open to the public, but limited space will be available on a first-come, first-served basis. Members of the public who wish to present oral statements at the meeting must submit a request to [ITSPAC@dot.gov](mailto:ITSPAC@dot.gov), not later than July 7, 2017.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of

Transportation, Office of the Assistant Secretary for Research and Technology, ITS Joint Program Office, Attention: Stephen Glasscock, (202) 366-9536, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493-2027. The ITS JPO requests that written comments be submitted not later than July 7, 2017.

Notice of this conference is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR part 102-3) covering management of Federal advisory committees.

Issued in Washington, DC, on June 28, 2017.

**Stephen Glasscock,**

*Designated Federal Officer, ITS Joint Program Office.*

[FR Doc. 2017-13982 Filed 6-30-17; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF THE TREASURY

### Open Meeting of the Financial Research Advisory Committee

**AGENCY:** Office of Financial Research, Department of the Treasury.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) is convening for its tenth meeting on Thursday, July 20, 2017, in the Ben Strong Room, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, beginning at 9:30 a.m. Eastern Time. The meeting will be open to the public via live webcast at <http://www.financialresearch.gov> and limited seating will also be available.

**DATES:** The meeting will be held on Thursday, July 20, 2017, beginning at 9:30 a.m. Eastern Time.

**ADDRESSES:** The meeting will be held in the Ben Strong Room, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045. The meeting will be open to the public via live webcast at <http://www.financialresearch.gov>. A limited number of seats will be available for those interested in attending the meeting in person, and those seats would be on a first-come, first-served basis. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting MUST contact the OFR by email at [OFR\\_FRAC@ofr.treasury.gov](mailto:OFR_FRAC@ofr.treasury.gov) by 5 p.m. Eastern Time on Thursday, July 13, 2017, to inform the OFR of their desire to attend the meeting and to receive

further instructions about building clearance.

**FOR FURTHER INFORMATION CONTACT:**

Susan Stiehm, Designated Federal Officer, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (212) 376-9808 (this is not a toll-free number), [OFR\\_FRAC@ofr.treasury.gov](mailto:OFR_FRAC@ofr.treasury.gov). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a)(2), through implementing regulations at 41 CFR 102-3.150, *et seq.*

**Public Comment:** Members of the public wishing to comment on the business of the Financial Research Advisory Committee are invited to submit written statements by any of the following methods:

- **Electronic Statements.** Email the Committee's Designated Federal Officer at [OFR\\_FRAC@ofr.treasury.gov](mailto:OFR_FRAC@ofr.treasury.gov).
- **Paper Statements.** Send paper statements in triplicate to the Financial Research Advisory Committee, Attn: Susan Stiehm, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

The OFR will post statements on the Committee's Web site, <http://www.financialresearch.gov>, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. The OFR will also make such statements available for public inspection and copying in the Department of the Treasury's library, Annex Room 1020, 1500 Pennsylvania Avenue NW., Washington, DC 20220 on official business days between the hours of 8:30 a.m. and 5:30 p.m. Eastern Time. You may make an appointment to inspect statements by telephoning (202) 622-0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**Tentative Agenda/Topics for Discussion:** The Committee provides an opportunity for researchers, industry leaders, and other qualified individuals to offer their advice and recommendations to the OFR, which, among other things, is responsible for collecting and standardizing data on financial institutions and their activities

and for supporting the work of Financial Stability Oversight Council.

This is the tenth meeting of the Financial Research Advisory Committee. Topics to be discussed among all members include the OFR's monitoring program, LEI outreach and cyber risk mapping. For more information on the OFR and the Committee, please visit the OFR Web site at <http://www.financialresearch.gov>.

Dated: June 27, 2017.

**Barbara Shycoff,**

*Chief of External Affairs.*

[FR Doc. 2017-13930 Filed 6-30-17; 8:45 am]

**BILLING CODE 4810-25-P**

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### Notice of Open Public Roundtable

**AGENCY:** U.S.-China Economic and Security Review Commission.

**ACTION:** Notice of open public roundtable.

**SUMMARY:** Notice is hereby given of the following roundtable of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on "the national security implications of the economic relationship between the United States and the People's Republic of China." Pursuant to this mandate, the Commission will hold a public roundtable in Washington, DC on July 12, 2017 on "The Health of China's Economy".

**DATES:** The meeting is scheduled for Wednesday, July 12, 2017, from 10:00 a.m. to 12:00 p.m.

**ADDRESSES:** 444 North Capitol Street NW., Room 285, Washington, DC. A detailed agenda for the roundtable will be posted on the Commission's Web site at [www.uscc.gov](http://www.uscc.gov). Also, please check the Commission's Web site for possible changes to the roundtable schedule. *Reservations are not required to attend the roundtable.*

**FOR FURTHER INFORMATION CONTACT:** Any member of the public seeking further information concerning the roundtable should contact Leslie Tisdale, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; telephone: 202-624-1496, or via email at [ltisdale@uscc.gov](mailto:ltisdale@uscc.gov). *Reservations are not required to attend the roundtable.*

**SUPPLEMENTARY INFORMATION:**

**Background:** This roundtable will examine three interrelated topics: The overall health of China's economy, the

impact of China's economic slowdown on the global economic system, and the implications for the U.S. economy and the U.S.-China economic relationship. The roundtable will be co-chaired by Vice Chairman Dennis Shea and Commissioner Michael Wessel. Any interested party may file a written statement by July 12, 2017, by mailing to the contact information above. A portion of the roundtable will include a question and answer period between the Commissioners and the panelists.

**Authority:** Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106-398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7), as amended by Public Law 109-108 (November 22, 2005), as amended by Public Law 113-291 (December 19, 2014).

Dated: June 28, 2017.

**Michael Danis,**

*Executive Director, U.S.-China Economic and Security Review Commission.*

[FR Doc. 2017-13993 Filed 6-30-17; 8:45 am]

**BILLING CODE 1137-00-P**

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### Notice of Open Public Meeting

**AGENCY:** U.S.-China Economic and Security Review Commission.

**ACTION:** Notice of open public meeting.

**SUMMARY:** Notice is hereby given of a meeting of the U.S.-China Economic and Security Review Commission to review and edit drafts of the 2017 Annual Report to Congress. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on the "the national security implications of the economic relationship between the United States and the People's Republic of China." Pursuant to this mandate, the Commission will hold a public meeting to review and edit drafts of the 2017 Annual Report to Congress.

**DATES:** The meeting is scheduled for Thursday, July 13, 2017, from 9:00 a.m. to 5:00 p.m. and Friday, July 14, 2017, from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** 444 North Capitol Street NW., Room 231, Washington, DC 20001. Public seating is limited and will be available on a "first-come, first-served" basis. *Reservations are not required to attend the meeting.*

**FOR FURTHER INFORMATION CONTACT:** Any member of the public seeking further information concerning the meeting should contact Alexis Brigmon, 444 North Capitol Street NW., Suite 602,

Washington, DC 20001; telephone: 202-624-1454, or via email at [abrigmon@uscc.gov](mailto:abrigmon@uscc.gov). *Reservations are not required to attend the meeting.*

### SUPPLEMENTARY INFORMATION:

**Purpose of Meeting:** Pursuant to the Commission's mandate, members of the Commission will meet to review and edit drafts of the 2017 Annual Report to Congress.

The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Pub. L. 109-108). In accordance with FACA, the Commission's meeting to make decisions concerning the substance and recommendations of its 2017 Annual Report to Congress are open to the public.

**Topics to Be Discussed:** The Commission will consider draft report sections addressing the following topics:

- U.S.-China Economic and Trade Relations, including: Chinese Investment in the United States.
- U.S.-China Security Relations, including: Hotspots along China's Maritime Periphery.
- China and the World, including: Hong Kong.
- China's High Tech Development, including: China's Pursuit of Global Dominance in Computing, Robotics, and Biotechnology; and China's Pursuit of Advanced Weapons.

**Required Accessibility Statement:** The meeting will be open to the public. The Commission may recess the meeting to address administrative issues in closed session.

The Commission will also recess the meeting around noon for a lunch break. At the beginning of the lunch break, the Chairman will announce what time the meeting will reconvene.

**Authority:** Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106-398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7), as amended by Public Law 109-108 (November 22, 2005), as amended by Public Law 113-291 (December 19, 2014).

Dated: June 28, 2017.

**Michael Danis,**

*Executive Director, U.S.-China Economic and Security Review Commission.*

[FR Doc. 2017-13995 Filed 6-30-17; 8:45 am]

**BILLING CODE 1137-00-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0252]

### Agency Information Collection Activity Under OMB Review: Application for Authority To Close Loans on an Automatic Basis Nonsupervised Lenders

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 2, 2017.

**ADDRESSES:** Submit written comments on the collection of information through [www.Regulations.gov](http://www.Regulations.gov), or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to [oirq\\_submission@omb.eop.gov](mailto:oirq_submission@omb.eop.gov). Please refer to "OMB Control No. 2900-0252 in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-5870 or email [cynthia.harvey-pryor@va.gov](mailto:cynthia.harvey-pryor@va.gov). Please refer to "OMB Control No. 2900-0252."

### SUPPLEMENTARY INFORMATION:

**Authority:** Public Law 104-13; 44 U.S.C. 3501-21.

**Title:** Application for Authority to Close Loans on an Automatic Basis Nonsupervised Lenders (VA Form 26-8736).

**OMB Control Number:** 2900-0252.  
**Type of Review:** Extension without change of a previously approved collection.

**Abstract:** VA Form 26-8736 is used by non-supervised lenders requesting approval to close loans on an automatic basis. The form contains information and data considered crucial for making acceptability determinations as to lenders who shall be approved for this privilege. Upon receipt of the form, the

VA Regional Loan Centers will process and evaluate the information. They will then advise the lender-applicant of their decision. Without this information, VA would not be able to determine if lender-applicants meet the qualifications for processing loans on an automatic basis.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 82, No. 79, Wednesday, April 26, 2017, page 19314.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 50 hours.

*Estimated Average Burden per*

*Respondent:* 25 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 120.

By direction of the Secretary.

**Cynthia Harvey-Pryor,**

*Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.*

[FR Doc. 2017-13974 Filed 6-30-17; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Health Services Research and Development Service, Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Health Services Research and Development Service Scientific Merit Review Board will conduct in-person and teleconference meetings of its eight Health Services Research (HSR) subcommittees on the dates below from 8:00 a.m. to approximately 4:30 p.m. (unless otherwise listed) at the VHA National Conference Center, 2011 Crystal Drive, Arlington, VA 22202 (unless otherwise listed):

- HSR 1—Health Care and Clinical Management on August 22–23, 2017;
- HSR 2—Behavioral, Social, and Cultural Determinants of Health and Care on August 22, 2017;
- HSR 3—Healthcare Informatics on August 24–25, 2017;

- HSR 4—Mental and Behavioral Health on August 24–25, 2017;
- HSR 5—Health Care System Organization and Delivery on August 23–24, 2017;
- HSR 6—Post-acute and Long-term Care on August 23, 2017;
- CDA—Career Development Award Meeting on August 24–25, 2017; and
- NRI—Nursing Research Initiative from 1:00 p.m. to 4:30 p.m. on August 25, 2017.

The purpose of the Board is to review health services research and development applications involving: The measurement and evaluation of health care services; the testing of new methods of health care delivery and management; and nursing research. Applications are reviewed for scientific and technical merit, mission relevance, and the protection of human and animal subjects. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

Each subcommittee meeting of the Board will be open to the public the first day for approximately one half-hour from 8:00 a.m. to 8:30 a.m. at the start of the meeting on August 22 (HSR 1, 2), August 23 (HSR 1, 6, 8), August 23–24 (HSR 5), August 24–25 (CDA, HSR 3, 4), and August 25 (NRI) to cover administrative matters and to discuss the general status of the program. Members of the public who wish to attend the open portion of the subcommittee meetings may dial 1–800–767–1750, participant code 10443#.

The remaining portion of each subcommittee meeting will be closed for the discussion, examination, reference to, and oral review of the intramural research proposals and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meetings. Those who plan

to participate during the open portion of a subcommittee meeting should contact Ms. Liza Catucci, Administrative Officer, Department of Veterans Affairs, Health Services Research and Development Service (10P9H), 810 Vermont Avenue NW., Washington, DC 20420, or by email at [Liza.Catucci@va.gov](mailto:Liza.Catucci@va.gov). For further information, please call Ms. Catucci at (202) 443–5797.

Dated: June 28, 2017.

**LaTonya L. Small,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2017–13920 Filed 6–30–17; 8:45 am]

**BILLING CODE 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, 5 U.S.C. App. 2, that a meeting of the Geriatrics and Gerontology Advisory Committee will be held on September 18–19, 2017, in Room 630 at VA, 810 Vermont Avenue NW., Washington, DC. On September 18, 2017, the session will begin at 1:00 p.m. and end at 5:00 p.m. On September 19, 2017, the session will begin at 8:00 a.m. and end at 5:00 p.m. 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), 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, Program Analyst, Geriatrics and Extended Care Services

(10P4G), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or via email at [Alejandra.Paulovich@va.gov](mailto:Alejandra.Paulovich@va.gov). Individuals who wish to attend the meeting should contact Mrs. Paulovich at (202) 461-6016.

Dated: June 28, 2017.

**LaTonya L. Small,**  
*Federal Committee Advisory Management Officer.*

[FR Doc. 2017-13927 Filed 6-30-17; 8:45 am]

**BILLING CODE P**

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# Reader Aids

Federal Register

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Public Laws Update Service (numbers, dates, etc.) **741-6043**

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## ELECTRONIC RESEARCH

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## FEDERAL REGISTER PAGES AND DATE, JULY

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## CFR PARTS AFFECTED DURING JULY

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.

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**LIST OF PUBLIC LAWS**

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**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 June 30, 2017

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## TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2017

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 3	Jul 18	Jul 24	Aug 2	Aug 7	Aug 17	Sep 1	Oct 2
July 5	Jul 20	Jul 26	Aug 4	Aug 9	Aug 21	Sep 5	Oct 3
July 6	Jul 21	Jul 27	Aug 7	Aug 10	Aug 21	Sep 5	Oct 4
July 7	Jul 24	Jul 28	Aug 7	Aug 11	Aug 21	Sep 5	Oct 5
July 10	Jul 25	Jul 31	Aug 9	Aug 14	Aug 24	Sep 8	Oct 10
July 11	Jul 26	Aug 1	Aug 10	Aug 15	Aug 25	Sep 11	Oct 10
July 12	Jul 27	Aug 2	Aug 11	Aug 16	Aug 28	Sep 11	Oct 10
July 13	Jul 28	Aug 3	Aug 14	Aug 17	Aug 28	Sep 11	Oct 11
July 14	Jul 31	Aug 4	Aug 14	Aug 18	Aug 28	Sep 12	Oct 12
July 17	Aug 1	Aug 7	Aug 16	Aug 21	Aug 31	Sep 15	Oct 16
July 18	Aug 2	Aug 8	Aug 17	Aug 22	Sep 1	Sep 18	Oct 16
July 19	Aug 3	Aug 9	Aug 18	Aug 23	Sep 5	Sep 18	Oct 17
July 20	Aug 4	Aug 10	Aug 21	Aug 24	Sep 5	Sep 18	Oct 18
July 21	Aug 7	Aug 11	Aug 21	Aug 25	Sep 5	Sep 19	Oct 19
July 24	Aug 8	Aug 14	Aug 23	Aug 28	Sep 7	Sep 22	Oct 23
July 25	Aug 9	Aug 15	Aug 24	Aug 29	Sep 8	Sep 25	Oct 23
July 26	Aug 10	Aug 16	Aug 25	Aug 30	Sep 11	Sep 25	Oct 24
July 27	Aug 11	Aug 17	Aug 28	Aug 31	Sep 11	Sep 25	Oct 25
July 28	Aug 14	Aug 18	Aug 28	Sep 1	Sep 11	Sep 26	Oct 26
July 31	Aug 15	Aug 21	Aug 30	Sep 5	Sep 14	Sep 29	Oct 30