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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Doc. No. AMS–SC–18–0022; SC18–948–1 FR]

Irish Potatoes Grown in Colorado; Increased Assessment Rate for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Colorado Potato Administrative Committee (Committee) to increase the assessment rate established for Area No. 2 for the 2018–2019 and subsequent fiscal periods. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement No. 97 and Order No. 948, as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado. Part 948, (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers and handlers operating within the area of production.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order, Colorado Area No. 2 potato handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate as established herein will be applicable to all assessable potatoes in Area No. 2 for the 2018–2019 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Order provides authority for each area Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting and all directly affected persons have an opportunity to participate and provide input.

This rule increases the assessment rate for Area No. 2 from $0.0033 to $0.006 per hundredweight of potatoes handled for the 2018–2019 and subsequent fiscal periods. The Committee established the current rate in 2013–2014 fiscal period to reduce the Committee's monetary reserve to a level that it determined to be appropriate under the Order. Since that action, the reserve fund has been drawn down to approximately 15 percent of annual budgeted expenditures. The $0.006 per hundredweight assessment rate realigns annual assessment revenue with expected administrative expenses moving forward and will no longer require the utilization of the monetary reserve to fund a portion of the Committee's budgeted expenditures.

The Committee met on March 15, 2018 to consider the Committee's projected 2018–2019 financial requirements, the size of the Committee's operating reserve, and the Order's continuing assessment rate. The Committee unanimously recommended an assessment rate of $0.006 per hundredweight of potatoes for the 2018–2019 fiscal period. The $0.006 assessment rate is $0.0027 higher than the rate previously in effect. Without the increase, anticipated assessment revenue would not have been sufficient to fund the Committee's ongoing administrative function, and the balance in the Committee's monetary reserve would not have been enough to cover the deficit. The assessment rate increase is necessary to maintain the Committee's oversight activities at current levels and avoid a reduction in the program's effectiveness.

For the 2017–2018 fiscal period, the Committee adopted a budget of $79,623.

The Committee recommended a similar level of budgeted expenditures for the 2018–2019 fiscal period at its meeting in May 2018. The Committee anticipates its expenditures for the 2018–2019 fiscal period to be close to the amounts for the 2017–2018 fiscal period. Budgeted expenditures for the 2017–2018 fiscal period included $66,110 for administrative expenses, $6,138 for office expenses, and $7,375 for facilities/utilities. The Committee's annual budget has been relatively stable over the past five years, with average growth of approximately 2.7 percent. The Committee's budget five years ago for the 2013–2014 fiscal period was $71,227, compared to the 2017–2018 fiscal period budget of $79,623.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments, and the amount of funds available in the authorized reserve. Expected income derived from handler assessments of $84,000 (estimated 14,000,000 hundredweight times $0.006 per hundredweight) should be adequate to cover budgeted expenses of between $81,000 and $83,000 and put a small amount back into the Committee's monetary reserve fund. Funds in the reserve (currently expected to be $11,848 at the end of the 2017–2018 fiscal period) would be kept within the maximum permitted by § 948.78.

The assessment rate established by this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's budget for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 160 producers of Colorado Area No. 2 potatoes in the production area and approximately 60 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to data from USDA's Market News, the 2016–2017 season weighted average f.o.b. price for Colorado potatoes was approximately $12.06 per hundredweight. The Committee reported that shipments for the 2016–2017 fiscal period were 13.9 million hundredweight. Using the number of handlers, and assuming a normal distribution, the majority of handlers would have average annual receipts of less than $7,500,000 ($12.06 times 13.9 million equals $167,634,000 divided by 60 handlers equals $2,793,900 per handler).

In addition, based on data from USDA's National Agricultural Statistics Service, the season average producer price for Colorado potatoes for the 2016–2017 crop year was approximately $9.60 per hundredweight. Based on producer price, shipment data, and the total number of Colorado Area No. 2 potato producers, and assuming a normal distribution, the average annual producer revenue is above $750,000 ($9.60 times 13.9 million hundredweight equals $133,440,000 divided by 160 producers equals $834,000 per producer). Thus, the majority of Colorado Area No. 2 potato handlers may be classified as small entities, while many of the Colorado Area No. 2 potato producers may be classified as large entities.

This rule increases the assessment rate collected from handlers for the 2018–2019 and subsequent fiscal periods from $0.0033 to $0.006 per hundredweight of Colorado Area No. 2 potatoes. The Committee unanimously recommended the increase. The $0.006 per hundredweight assessment rate established by this rule is $0.0027 higher than the 2017–2018 rate. The quantity of assessable potatoes for the 2018–2019 fiscal period is estimated at 14 million hundredweight. Thus, the $0.006 rate is expected to provide $84,000 in assessment income. Income derived from handler assessments is expected to be adequate to cover budgeted expenses.

The Committee adopted a budget of $79,623 for the 2017–2018 fiscal period and recommended a similar amount of budgeted expenditures for the 2018–2019 fiscal period at its scheduled May 2018 meeting. The major budgeted expenditures for the 2017–2018 year included $66,110 for administrative expenses, $6,138 for office expenses, and $7,375 for facilities/utilities. Budgeted expenses for these items in 2016–2017 were $65,894, $6,587, and $6,313, respectively.

Prior to arriving at the recommended assessment rate, the Committee considered the benefits and costs related to establishing other assessment rates. However, the Committee determined that any assessment rate other than the $0.006 per hundredweight rate would either generate insufficient revenue to meet the Committee's expected expenses for the 2018–2019 fiscal period or would result in a larger than desired addition to the Committee's reserve. Based on estimated shipments, the established assessment rate of $0.006 should provide $84,000 in assessment income. The Committee determined that this level of assessment revenue would be adequate to cover budgeted expenses for the 2018–2019 fiscal period without unduly increasing reserve funds.

A review of historical information and preliminary information pertaining to the upcoming fiscal year indicates that the average producer price for the 2018–2019 season should be approximately $9.26 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 2018–2019 fiscal period as a percentage of total producer revenue would be about 0.06 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs, such costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the Order.

In addition, the Committee's meeting was widely publicized throughout the Colorado potato industry. All interested

persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the March 15, 2018, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Colorado potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As mentioned in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on May 24, 2018 (83 FR 24045). A copy of the proposed rule was provided to the handlers by the Committee. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending June 25, 2018, was provided for interested persons to respond to the proposal. No comments were received.

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

■ 1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 948.216 is revised to read as follows:

§ 948.216 Assessment rate.

On and after September 1, 2018, an assessment rate of $0.006 per hundredweight is established for Colorado Area No. 2 potatoes.

Dated: August 22, 2018

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–18560 Filed 8–24–18; 8:45 am]

BILLING CODE 3410–02–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index (CPI) in effect on June 1, 2018.

DATES: This final rule is effective January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Monique Chenault, Paralegal, and Shelley Thompson, Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Bureau is amending the regulation text and official interpretations for Regulation Z, which implements TILA, to update the dollar amounts of various thresholds that are adjusted annually based on the annual percentage change in the CPI as published by the Bureau of Labor Statistics (BLS). Specifically, for open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at $1.00 in 2019. For open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount in 2019 for the safe harbor for a first violation penalty fee will increase by $1 to $28 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will increase by $1 to $39. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2019 will be $21,549. The adjusted points-and-fees dollar trigger for high-cost mortgages in 2019 will be $1,077. For qualified mortgages, which receive certain protections from liability under the ability-to-repay rule, the maximum thresholds for total points and fees in 2019 will be 3 percent of the total loan amount for a loan greater than or equal to $107,747; $3,232 for a loan amount greater than or equal to $64,648 but less than $107,747; 5 percent of the total loan amount for a loan greater than or equal to $21,549 but less than $64,648; $1,077 for a loan amount greater than or equal to $13,468 but less than $21,549; and 8 percent of the total loan amount for a loan amount less than $13,468.

I. Background

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds

Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) of Regulation Z implement sections 127(a)(3) and 127(c)(1)(A)(ii)(II) of TILA. Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) require the disclosure of any minimum interest charge exceeding $1.00 that could be imposed during a billing cycle and provide that, for open-end consumer credit plans, the minimum interest charge thresholds

will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for this adjustment. When the cumulative change in the adjusted minimum value derived from applying the annual CPI–W level to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) has risen by a whole dollar, the minimum interest charge amounts set forth in the regulation will be increased by $1.00. The BLS publishes consumer-based indices monthly but does not report a CPI change on June 1; adjustments are reported in the middle of the month. This adjustment analysis is based on the CPI–W index in effect on June 1, 2018, which was reported by BLS on May 10, 2018, and reflects the percentage change from April 2017 to April 2018. The CPI–W is a subset of the Consumer Price Index for All Urban Consumers (CPI–U) index and represents approximately 29 percent of the U.S. population. The adjustment analysis accounts for a 2.6 percent increase in the CPI–W from April 2017 to April 2018. This increase in the CPI–W when applied to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) did not trigger an increase in the minimum interest charge threshold of at least $1.00, and the Bureau is therefore not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

Safe Harbor Penalty Fees

Section 1026.52(b)(1)(ii)(A) and (B) of Regulation Z implements section 149(e) of TILA, established by the CARD Act.[1] Section 1026.52(b)(1)(ii)(D) provides that the safe harbor provision, which establishes the permissible penalty fee thresholds in § 1026.52(b)(1)(ii)(A) and (B), will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the CPI–W for this adjustment. When the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, when the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has decreased by a whole dollar, those amounts will be decreased by $1.00. See comment 52(b)(1)(ii)–2. The 2019 adjustment analysis is based on the CPI–W index in effect on June 1, 2018, which was reported by BLS on May 10, 2018, and reflects the percentage change from April 2017 to April 2018. The adjustment to the permissible fee thresholds being adopted here reflects a 2.6 percent increase in the CPI–W from April 2017 to April 2018 and is rounded to the nearest $1 increment.

B. HOEPA Annual Threshold Adjustments

Section 1026.32(a)(1)(ii) of Regulation Z implements section 1431 of the Dodd-Frank Act,[2] which amended the HOEPA points-and-fees coverage test. Under § 1026.32(a)(1)(ii)(A) and (B), when determining whether a transaction is a high-cost mortgage, the determination of the applicable points-and-fees coverage test depends on whether the total loan amount is for $20,000 or more, or for less than $20,000. Section 1026.32(a)(1)(ii) provides that this threshold amount be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment. The CPI–U is based on all urban consumers and represents approximately 93 percent of the U.S. population. The 2019 adjustment is based on the CPI–U index in effect on June 1, which was reported by BLS on May 10, 2018, and reflects the percentage change from April 2017 to April 2018. The adjustment to the $20,000 figure being adopted here reflects a 2.5 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

Under § 1026.32(a)(1)(ii)(B) the HOEPA points-and-fees dollar trigger is $1,000. Section 1026.32(a)(1)(ii)(B) provides that this threshold amount will be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment. The 2019 adjustment is based on the CPI–U index in effect on June 1, 2018, which was reported by BLS on May 10, 2018, and reflects the percentage change from April 2017 to April 2018. The adjustment to the $1,000 figure being adopted here reflects a 2.5 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

C. Qualified Mortgages Annual Threshold Adjustments

The Bureau's Regulation Z implements sections 1411 and 1412 of the Dodd-Frank Act, which generally require creditors to make a reasonable, good-faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling and establishes certain protections from liability under this requirement for qualified mortgages. Under § 1026.43(e)(3)(i), a covered transaction is not a qualified mortgage if the transaction's total points and fees exceed: 3 percent of the total loan amount for a loan amount greater than or equal to $100,000; $3,000 for a loan amount greater than or equal to $60,000 but less than $100,000; 5 percent of the total loan amount for loans greater than or equal to $20,000 but less than $60,000; $1,000 for a loan amount greater than or equal to $12,500 but less than $20,000; or 8 percent of the total loan amount for loans less than $12,500. Section 1026.43(e)(3)(ii) provides that the limits and loan amounts in § 1026.43(e)(3)(i) are recalculated annually for inflation using the CPI–U index in effect on June 1. The 2019 adjustment is based on the CPI–U index in effect on June 1, 2018, which was reported by BLS on May 10, 2018, and reflects the percentage change from April 2017 to April 2018. The adjustment to the 2018 figures being adopted here reflects a 2.5 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds—§§ 1026.6(b)(2)(iii) and 1026.60(b)(3)

The minimum interest charge amounts for §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) will remain unchanged at $1.00 for the year 2019. Accordingly, the Bureau is not amending these sections of Regulation Z.

Safe Harbor Penalty Fees—§ 1026.52(b)(1)(ii)(A) and (B)

Effective January 1, 2019, the permissible fee threshold amounts increased by $1 and are $28 for § 1026.52(b)(1)(ii)(A) and $39 for § 1026.52(b)(1)(ii)(B). Accordingly, the Bureau is revising § 1026.52(b)(1)(ii)(A) and (B) to state that the fee imposed for violating the terms or other requirements of an account shall not exceed $28 and $39 respectively. The Bureau is also amending comment 52(b)(1)(ii)–2.i to preserve a list of the historical thresholds for this provision.

B. HOEPA Annual Threshold Adjustment—Comments 32(a)(1)(ii)–1 and –3

Effective January 1, 2019, for purposes of determining under § 1026.32(a)(1)(ii)

[1] Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111–24, 123 Stat. 1734 (2009).

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

the points-and-fees coverage test under HOEPA to which a transaction is subject, the total loan amount threshold is $21,549, and the adjusted points-and-fees dollar trigger under § 1026.32(a)(1)(ii)(B) is $1,077. When the total loan amount for a transaction is $21,549 or more, and the points-and-fees amount exceeds 5 percent of the total loan amount, the transaction is a high-cost mortgage. When the total loan amount for a transaction is less than $21,549, and the points-and-fees amount exceeds the lesser of the adjusted points-and-fees dollar trigger of $1,077 or 8 percent of the total loan amount, the transaction is a high-cost mortgage. The Bureau is amending comments 32(a)(1)(ii)–1 and –3, which list the adjustments for each year, to reflect for 2019 the new loan amount dollar threshold and the new points-and-fees dollar trigger, respectively.

C. Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2019, a covered transaction is not a qualified mortgage if, pursuant to § 1026.43(e)(3), the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $107,747; $3,232 for a loan amount greater than or equal to $64,648 but less than $107,747; 5 percent of the total loan amount for loans greater than or equal to $21,549 but less than $64,648; $1,077 for a loan amount greater than or equal to $13,468 but less than $21,549; or 8 percent of the total loan amount for loans less than $13,468. The Bureau is amending comment 43(e)(3)(ii)–1, which lists the adjustments for each year, to reflect the new dollar threshold amounts for 2019.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, in Regulation Z, § 1026.52(b)(1)(ii)(A) and (B) in subpart G is amended and comments 32(a)(1)(ii)–1.v and –3.v, 43(e)(3)(ii)–1.v, and 52(b)(1)(ii)–2.i.F in Supplement I are added to update the exemption thresholds. The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320), the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart G—Special Rules Applicable to Credit Card Accounts and Open End Credit Offered to College Students

■ 2. Amend § 1026.52 by revising paragraphs (b)(1)(ii)(A) and (B) to read as follows:

§ 1026.52 Limitations on fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) $28

(B) $39 if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or

* * * * *

■ 3. In Supplement I to Part 1026:

■ a. Under *Section 1026.32—Requirements for High-Cost Mortgages, Paragraph 32(a)(1)(ii)* is revised.

■ b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling, Paragraph 43(e)(3)(ii)* is revised.

■ c. Under *Section 1026.52—Limitations on Fees, 52(b)(1)(ii) Safe harbors* is revised.

The revisions read as follows:

SUPPLEMENT I TO PART 1026—OFFICIAL INTERPRETATIONS

* * * * *

Section 1026.32—Requirements for High-Cost Mortgages

* * * * *

Paragraph 32(a)(1)(ii).

1. *Annual adjustment of $1,000 amount.* The $1,000 figure in § 1026.32(a)(1)(ii)(B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, $1,020, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $1,017, reflecting a .2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

iii. For 2017, $1,029, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

iv. For 2018, $1,052, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $1,077, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

2. *Historical adjustment of $400 amount.* Prior to January 10, 2014, a mortgage loan was covered by § 1026.32 if the total points and fees payable by the consumer at or before loan consummation exceeded the greater of $400 or 8 percent of the total loan amount. The $400 figure was adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1, as follows:

i. For 1996, $412, reflecting a 3.00 percent increase in the CPI–U from June 1994 to June 1995, rounded to the nearest whole dollar.

ii. For 1997, $424, reflecting a 2.9 percent increase in the CPI–U from June 1995 to June 1996, rounded to the nearest whole dollar.

iii. For 1998, $435, reflecting a 2.5 percent increase in the CPI–U from June 1996 to June 1997, rounded to the nearest whole dollar.

iv. For 1999, $441, reflecting a 1.4 percent increase in the CPI–U from June 1997 to June 1998, rounded to the nearest whole dollar.

v. For 2000, $451, reflecting a 2.3 percent increase in the CPI–U from June 1998 to June 1999, rounded to the nearest whole dollar.

vi. For 2001, $465, reflecting a 3.1 percent increase in the CPI–U from June 1999 to June 2000, rounded to the nearest whole dollar.

vii. For 2002, $480, reflecting a 3.27 percent increase in the CPI–U from June 2000 to June 2001, rounded to the nearest whole dollar.

viii. For 2003, $488, reflecting a 1.64 percent increase in the CPI–U from June 2001 to June 2002, rounded to the nearest whole dollar.

ix. For 2004, $499, reflecting a 2.22 percent increase in the CPI–U from June 2002 to June 2003, rounded to the nearest whole dollar.

x. For 2005, $510, reflecting a 2.29 percent increase in the CPI–U from June 2003 to June 2004, rounded to the nearest whole dollar.

xi. For 2006, $528, reflecting a 3.51 percent increase in the CPI–U from June 2004 to June 2005, rounded to the nearest whole dollar.

xii. For 2007, $547, reflecting a 3.55 percent increase in the CPI–U from June 2005 to June 2006, rounded to the nearest whole dollar.

xiii. For 2008, $561, reflecting a 2.56 percent increase in the CPI–U from June 2006 to June 2007, rounded to the nearest whole dollar.

xiv. For 2009, $583, reflecting a 3.94 percent increase in the CPI–U from June 2007 to June 2008, rounded to the nearest whole dollar.

xv. For 2010, $579, reflecting a 0.74 percent decrease in the CPI–U from June 2008 to June 2009, rounded to the nearest whole dollar.

xvi. For 2011, $592, reflecting a 2.2 percent increase in the CPI–U from June 2009 to June 2010, rounded to the nearest whole dollar.

xvii. For 2012, $611, reflecting a 3.2 percent increase in the CPI–U from June 2010 to June 2011, rounded to the nearest whole dollar.

xviii. For 2013, $625, reflecting a 2.3 percent increase in the CPI–U from June 2011 to June 2012, rounded to the nearest whole dollar.

xix. For 2014, $632, reflecting a 1.1 percent increase in the CPI–U from June 2012 to June 2013, rounded to the nearest whole dollar.

3. *Applicable threshold.* For purposes of § 1026.32(a)(1)(ii), a creditor must determine the applicable points and fees threshold based on the face amount of the note (or, in the case of an open-end credit plan, the credit limit for the plan when the account is opened). However, the creditor must apply the allowable points and fees percentage to the ''total loan amount,'' as defined in § 1026.32(b)(4). For closed-end credit transactions, the total loan amount may be different than the face amount of the note. The $20,000 amount in § 1026.32(a)(1)(ii)(A) and (B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1.

i. For 2015, $20,391, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $20,350, reflecting a .2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

iii. For 2017, $20,579, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

iv. For 2018, $21,032, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $21,549, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

Paragraph 43(e)(3)(ii).

1. *Annual adjustment for inflation.* The dollar amounts, including the loan amounts, in § 1026.43(e)(3)(i) will be adjusted annually on January 1 by the annual percentage change in the CPI–U that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, reflecting a 2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,953: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,172 but less than $101,953: $3,059;

C. For a loan amount greater than or equal to $20,391 but less than $61,172: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,744 but less than $20,391; $1,020;

E. For a loan amount less than $12,744: 8 percent of the total loan amount.

ii. For 2016, reflecting a .2 percent decrease in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,749: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,050 but less than $101,749: $3,052;

C. For a loan amount greater than or equal to $20,350 but less than $61,050: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,719 but less than $20,350; $1,017;

E. For a loan amount less than $12,719: 8 percent of the total loan amount.

iii. For 2017, reflecting a 1.1 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed:

A. For a loan amount greater than or equal to $102,894: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,737 but less than $102,894: $3,087;

C. For a loan amount greater than or equal to $20,579 but less than $61,737: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,862 but less than $20,579: $1,029;

E. For a loan amount less than $12,862: 8 percent of the total loan amount.

iv. For 2018, reflecting a 2.2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $105,158: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $63,095 but less than $105,158: $3,155;

C. For a loan amount greater than or equal to $21,032 but less than $63,095: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,145 but less than $21,032: $1,052;

E. For a loan amount less than $13,145: 8 percent of the total loan amount.

v. For 2019, reflecting a 2.5 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $107,747: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $64,648 but less than $107,747: $3,232;

C. For a loan amount greater than or equal to $21,549 but less than $64,648: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,468 but less than $21,549: $1,077;

E. For a loan amount less than $13,468: 8 percent of the total loan amount.

* * * * *

Section 1026.52—Limitations on Fees

* * * * *

52(b)(1)(ii) Safe harbors

1. Multiple violations of same type. i. Same billing cycle or next six billing cycles. A card issuer cannot impose a fee for a violation pursuant to § 1026.52(b)(1)(ii)(B) unless a fee has previously been imposed for the same type of violation pursuant to § 1026.52(b)(1)(ii)(A). Once a fee has been imposed for a violation pursuant to § 1026.52(b)(1)(ii)(A), the card issuer may impose a fee pursuant to § 1026.52(b)(1)(ii)(B) for any subsequent violation of the same type until that type of violation has not occurred for a period of six consecutive complete billing cycles. A fee has been imposed for purposes of § 1026.52(b)(1)(ii) even if the card issuer waives or rebates all or part of the fee.

A. Late payments. For purposes of § 1026.52(b)(1)(ii), a late payment occurs during the billing cycle in which the payment may first be treated as late consistent with the requirements of this part and the terms or other requirements of the account.

B. Returned payments. For purposes of § 1026.52(b)(1)(ii), a returned payment occurs during the billing cycle in which the payment is returned to the card issuer.

C. Transactions that exceed the credit limit. For purposes of § 1026.52(b)(1)(ii), a transaction that exceeds the credit limit for

an account occurs during the billing cycle in which the transaction occurs or is authorized by the card issuer.

D. Declined access checks. For purposes of § 1026.52(b)(1)(ii), a check that accesses a credit card account is declined during the billing cycle in which the card issuer declines payment on the check.

ii. Relationship to §§ 1026.52(b)(2)(ii) and 1026.56(j)(1). If multiple violations are based on the same event or transaction such that § 1026.52(b)(2)(ii) prohibits the card issuer from imposing more than one fee, the event or transaction constitutes a single violation for purposes of § 1026.52(b)(1)(ii). Furthermore, consistent with § 1026.56(j)(1)(i), no more than one violation for exceeding an account's credit limit can occur during a single billing cycle for purposes of § 1026.52(b)(1)(ii). However, § 1026.52(b)(2)(ii) does not prohibit a card issuer from imposing fees for exceeding the credit limit in consecutive billing cycles based on the same over-the-limit transaction to the extent permitted by § 1026.56(j)(1). In these circumstances, the second and third over-the-limit fees permitted by § 1026.56(j)(1) may be imposed pursuant to § 1026.52(b)(1)(ii)(B). See comment 52(b)(2)(ii)–1.

iii. Examples. The following examples illustrate the application of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) with respect to credit card accounts under an open-end (not home-secured) consumer credit plan that are not charge card accounts. For purposes of these examples, assume that the billing cycles for the account begin on the first day of the month and end on the last day of the month and that the payment due date for the account is the twenty-fifth day of the month.

A. Violations of same type (late payments). A required minimum periodic payment of $50 is due on March 25. On March 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on March 26. In order for the card issuer to impose a $35 late payment fee pursuant to § 1026.52(b)(1)(ii)(B), a second late payment must occur during the April, May, June, July, August, or September billing cycles.

1. The card issuer does not receive any payment during the March billing cycle. A required minimum periodic payment of $100 is due on April 25. On April 20, the card issuer receives a $50 payment. No further payment is received during the April billing cycle. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer may impose a $35 late payment fee on April 26. Furthermore, the card issuer may impose a $35 late payment fee for any late payment that occurs during the May, June, July, August, September, or October billing cycles.

2. Same facts as in paragraph A above. On March 30, the card issuer receives a $50 payment and the required minimum periodic payments for the April, May, June, July, August, and September billing cycles are received on or before the payment due date. A required minimum periodic payment of $60 is due on October 25. On October 26, a late payment has occurred because the required minimum periodic payment due on October 25 has not been received. However, because this late payment did not occur during the six billing cycles following the March billing cycle, § 1026.52(b)(1)(ii) only permits the card issuer to impose a late payment fee of $25.

B. *Violations of different types (late payment and over the credit limit).* The credit limit for an account is $1,000. Consistent with § 1026.56, the consumer has affirmatively consented to the payment of transactions that exceed the credit limit. A required minimum periodic payment of $30 is due on August 25. On August 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on August 26. On August 30, the card issuer receives a $30 payment. On September 10, a transaction causes the account balance to increase to $1,150, which exceeds the account's $1,000 credit limit. On September 11, a second transaction increases the account balance to $1,350. On September 23, the card issuer receives the $50 required minimum periodic payment due on September 25, which reduces the account balance to $1,300. On September 30, the card issuer imposes a $25 over-the-limit fee, consistent with § 1026.52(b)(1)(ii)(A). On October 26, a late payment has occurred because the $60 required minimum periodic payment due on October 25 has not been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer imposes a $35 late payment fee on October 26.

C. *Violations of different types (late payment and returned payment).* A required minimum periodic payment of $50 is due on July 25. On July 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on July 26. On July 30, the card issuer receives a $50 payment. A required minimum periodic payment of $50 is due on August 25. On August 24, a $50 payment is received. On August 27, the $50 payment is returned to the card issuer for insufficient funds. In these circumstances, § 1026.52(b)(2)(ii) permits the card issuer to impose either a late payment fee or a returned payment fee but not both because the late payment and the returned payment result from the same event or transaction. Accordingly, for purposes of § 1026.52(b)(1)(ii), the event or transaction constitutes a single violation. However, if the card issuer imposes a late payment fee, § 1026.52(b)(1)(ii)(B) permits the issuer to impose a fee of $35 because the late payment occurred during the six billing cycles following the July billing cycle. In contrast, if the card issuer imposes a returned payment fee, the amount of the fee may be no more than $25 pursuant to § 1026.52(b)(1)(ii)(A).

2. *Adjustments based on Consumer Price Index.* For purposes of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B), the Bureau shall calculate each year price level adjusted amounts using the Consumer Price Index in effect on June 1 of that year. When the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, when the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has decreased by a whole dollar, those amounts will be decreased by $1.00. The Bureau will publish adjustments to the amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B).

i. *Historical thresholds.*

A. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $25 under § 1026.52(b)(1)(ii)(A) and $35 under § 1026.52(b)(1)(ii)(B), through December 31, 2013.

B. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $26 under § 1026.52(b)(1)(ii)(A) and $37 under § 1026.52(b)(1)(ii)(B), through December 31, 2014.

C. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2015.

D. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A), through December 31, 2016. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $37 under § 1026.52(b)(1)(ii)(B), through June 26, 2016, and $38 under § 1026.52(b)(1)(ii)(B) from June 27, 2016 through December 31, 2016.

E. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2017.

F. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2018.

3. *Delinquent balance for charge card accounts.* Section 1026.52(b)(1)(ii)(C) provides that, when a charge card issuer that requires payment of outstanding balances in full at the end of each billing cycle has not received the required payment for two or more consecutive billing cycles, the card issuer may impose a late payment fee that does not exceed three percent of the delinquent balance. For purposes of § 1026.52(b)(1)(ii)(C), the delinquent balance is any previously billed amount that remains unpaid at the time the late payment fee is imposed pursuant to § 1026.52(b)(1)(ii)(C). Consistent with § 1026.52(b)(2)(ii), a charge card issuer that imposes a fee pursuant to § 1026.52(b)(1)(ii)(C) with respect to a late payment may not impose a fee pursuant to § 1026.52(b)(1)(ii)(B) with respect to the same late payment. The following examples illustrate the application of § 1026.52(b)(1)(ii)(C):

i. Assume that a charge card issuer requires payment of outstanding balances in full at

the end of each billing cycle and that the billing cycles for the account begin on the first day of the month and end on the last day of the month. At the end of the June billing cycle, the account has a balance of $1,000. On July 5, the card issuer provides a periodic statement disclosing the $1,000 balance consistent with § 1026.7. During the July billing cycle, the account is used for $300 in transactions, increasing the balance to $1,300. At the end of the July billing cycle, no payment has been received and the card issuer imposes a $25 late payment fee consistent with § 1026.52(b)(1)(ii)(A). On August 5, the card issuer provides a periodic statement disclosing the $1,325 balance consistent with § 1026.7. During the August billing cycle, the account is used for $200 in transactions, increasing the balance to $1,525. At the end of the August billing cycle, no payment has been received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $40, which is 3% of the $1,325 balance that was due at the end of the August billing cycle. Section 1026.52(b)(1)(ii)(C) does not permit the card issuer to include the $200 in transactions that occurred during the August billing cycle.

ii. Same facts as above except that, on August 25, a $100 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $37, which is 3% of the unpaid portion of the $1,325 balance that was due at the end of the August billing cycle ($1,225).

iii. Same facts as in paragraph A above except that, on August 25, a $200 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $34, which is 3% of the unpaid portion of the $1,325 balance that was due at the end of the August billing cycle ($1,125). In the alternative, the card issuer may impose a late payment fee of $35 consistent with § 1026.52(b)(1)(ii)(B). However, § 1026.52(b)(2)(ii) prohibits the card issuer from imposing both fees.

* * * * *

Dated: August 16, 2018.

Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–18209 Filed 8–24–18; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–3338; Airspace Docket No. 15–ASO–7]

RIN 2120–AA66

Modification and Establishment of Restricted Areas; Townsend, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the restricted airspace at the Townsend Bombing Range, GA (Range), by expanding the lateral limits of R–3007A to allow construction of additional targets and impact areas. The modification is needed so that precision guided munitions (PGM) can be used on the range. The changes are completely contained within the existing outer boundaries of the R–3007 complex.

DATES: Effective date 0901 UTC, November 8, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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 modifies restricted airspace to accommodate military training requirements.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2015–3338 in the **Federal Register** (80 FR 60573; October 7, 2015), to expand the lateral limits of restricted area R–3007A, Townsend, GA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. The comment period closed November 23, 2015. One comment was received from a member of the public.

Discussion of Comment

The commenter suggested that the floor of the proposed R–3007E be lowered from 100 feet above ground level (AGL); to the surface in order to allow the opportunity to add more targets in the future. To designate the surface as the floor of a restricted area, the proponent must own, or otherwise control, the underlying land. The expansion of R–3007A, which extends to the surface, encompasses land purchased by the proponent for that purpose. R–3007E is outside the land purchase area, therefore it is not possible to lower the floor below 100 feet AGL at this time.

Differences From NPRM

The NPRM contained an error in the 15th coordinate listed for R–3007A. The longitude for that point was listed as ''91°36′32″ W.'' The correct point is ''81°36′32″ W.''

The NPRM listed the ''Air National Guard (ANG), Savannah Combat Readiness Training Center (CRTC),'' as the using agency in the description of R–3007E. Since the publication of the NPRM, using agency responsibilities for the Range were transferred from the ANG to the U.S. Marine Corps (USMC). On June 28, 2017, the FAA published in the **Federal Register** a final rule that changed the using agency for the restricted areas to the USMC, Marine Corps Air Station Beaufort, SC (82 FR 29229), Docket No. FAA–2017–0585. The USMC has assumed responsibility for management and operation of the Townsend Range. This change is reflected in the description of R–3007E, below.

The Rule

The FAA is amending 14 CFR part 73 to expand restricted area R–3007A by merging the part of R–3007C that overlies a land parcel acquired by the U.S. Marine Corps into R–3007A. The floor of R–3007C is 100 feet AGL. By adding the airspace over this land parcel into R–3007A, the restricted area floor in that area will be lowered from 100 feet AGL down to ground level. The small slice of restricted airspace, with a 100-foot AGL floor, between the east boundary of the expanded R–3007A, and the west boundary of R–3007B, is redesignated as R–3007E. R–3007E extends from 100 feet AGL up to, but not including, 13,000 feet MSL.

Minor corrections are made to several boundary coordinates for R–3007B, R–3007C, and R–3007D to match the current National Hydrology Dataset that defines the Altamaha River boundary where that river forms the boundary of the restricted areas.

This rule provides the additional ground-level restricted airspace needed for the construction of targets and impact areas so that PGM can safely be employed at the Range.

Regulatory Notices and Analyses

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

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

Environmental Review

The FAA has determined that the USMC's Environmental Impact Statement (EIS) analyzing the modification of restricted airspace at the Townsend Bombing Range, GA, by expanding the lateral limits of R–3007A to allow construction of additional targets and impact areas so that PGM can be used on the Range, qualifies for FAA adoption in accordance with FAA Order 1050.1F, paragraphs 8–2 and 9–2, *Adoption of Other Agencies' National Environmental Policy Act Documents,* and *Written Re-evaluations,* and 7400.2L, paragraph 32–2–3, *Environmental Processing of Special Use Airspace Actions.* The FAA, after conducting an independent review and written re-evaluation of the USMC's January 14, 2014 ''Final EIS and Record of Decision for the Proposed Modernization and Expansion of Townsend Bombing Range, Georgia,'' has determined that the USMC's Final EIS and supporting documentation adequately assess and disclose the environmental impacts of the proposed action. Based on the evaluation for potential environmental impact in the USMC's EIS, the FAA, as the Cooperating Agency, concluded that adoption of the EIS is authorized in accordance with 40 CFR 1506.3, *Adoption.* Accordingly, FAA adopts the USMC's EIS via the FAA's June 12, 2018 Adoption EIS, *FAA Adoption of Environmental Impact Statement, Written Re-Evaluation, and Record of Decision for the Modernization of the Existing Special Use Airspace and Amendment of R–3007 A/C/E at Townsend Bombing Range, Georgia,* and takes full responsibility for the scope and content that address the FAA's airspace action. The FAA finds that this action will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(C) of NEPA.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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.

§ 73.30 [Amended]

■ 2. Section 73.30 is amended as follows:

* * * * *

R–3007A Townsend, GA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 31°41′52″ N, long. 81°35′53″ W; to lat. 31°42′31″ N, long. 81°33′59″ W; to lat. 31°39′24″ N, long. 81°30′31″ W; to lat. 31°37′49″ N, long. 81°30′56″ W; to lat. 31°36′35″ N, long. 81°31′15″ W; to lat. 31°34′17″ N, long. 81°31′56″ W; to lat. 31°33′07″ N, long. 81°32′41″ W; thence counterclockwise along a 1-NM radius arc from a point centered at lat. 31°32′26″ N, long. 81°31′49″ W; to lat. 31°32′37″ N, long. 81°32′58″ W; to lat. 31°30′59″ N, long. 81°33′57″ W; to lat. 31°30′45″ N, long. 81°34′19″ W; to lat. 31°30′29″ N, long. 81°34′41″ W; to lat. 31°30′38″ N, long. 81°35′06″ W; to lat. 31°31′13″ N, long. 81°35′02″ W; to lat. 31°31′35″ N, long. 81°36′32″ W; to lat. 31°33′04″ N, long. 81°37′27″ W; to lat. 31°33′30″ N, long. 81°36′32″ W; to lat. 31°34′25″ N, long. 81°36′13″ W; to lat. 31°35′32″ N, long. 81°35′59″ W; to lat. 31°35′55″ N, long. 81°35′19″ W; to lat. 31°36′38″ N, long. 81°35′18″ W; to lat. 31°36′43″ N, long. 81°35′41″ W; to lat. 31°37′20″ N, long. 81°35′37″ W; to lat. 31°37′23″ N, long. 81°35′47″ W; to lat. 31°40′29″ N, long. 81°36′13″ W; to lat. 31°40′48″ N, long. 81°35′33″ W; to the point of beginning.

R–3007B Townsend, GA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 31°38′01″ N, long. 81°28′59″ W; to lat. 31°37′31″ N, long. 81°28′14″ W; to lat. 31°32′31″ N, long. 81°27′29″ W; to lat. 31°26′16″ N, long. 81°31′29″ W; to lat. 31°25′26″ N, long. 81°36′05″ W; to lat. 31°27′26″ N, long. 81°33′39″ W; to lat. 31°31′26″ N, long. 81°31′58″ W; thence clockwise along a 1-NM radius arc from a point centered at lat. 31°32′26″ N, long. 81°31′49″ W; to lat. 31°33′18″ N, long. 81°31′13″ W; to the point of beginning.

R–3007C Townsend, GA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 31°37′55″ N, long. 81°47′20″ W; to lat. 31°41′52″ N, long. 81°35′53″ W; to lat. 31°40′48″ N, long. 81°35′33″ W; to lat. 31°40′29″ N, long. 81°36′13″ W; to lat. 31°37′23″ N, long. 81°35′47″ W; to lat. 31°37′20″ N, long. 81°35′37″ W; to lat. 31°36′43″ N, long. 81°35′41″ W; to lat. 31°36′38″ N, long. 81°35′18″ W; to lat. 31°35′55″ N, long. 81°35′19″ W; to lat. 31°35′32″ N, long. 81°35′59″ W; to lat. 31°34′25″ N, long. 81°36′13″ W; to lat. 31°33′30″ N, long. 81°36′32″ W; to lat. 31°33′04″ N, long. 81°37′27″ W; to lat. 31°31′35″ N, long. 81°36′32″ W; to lat. 31°31′13″ N, long. 81°35′02″ W; to lat. 31°30′38″ N, long. 81°35′06″ W; to lat. 31°30′29″ N, long. 81°34′41″ W; to lat. 31°30′45″ N, long. 81°34′19″ W; to lat. 31°30′59″ N, long. 81°33′57″ W; to lat. 31°32′37″ N, long. 81°32′58″ W; thence counterclockwise along a 1-NM radius arc from a point centered at lat. 31°32′26″ N, long. 81°31′49″ W; to lat. 31°31′26″ N, long. 81°31′58″ W; to lat. 31°27′26″ N, long. 81°33′39″ W; to lat. 31°25′26″ N, long. 81°36′05″ W; thence west along the Altamaha River to the point of beginning.

R–3007D Townsend, GA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 31°37′55″ N, long. 81°47′20″ W; to lat. 31°41′52″ N, long. 81°35′53″ W; to lat. 31°42′31″ N, long. 81°33′59″ W; to lat. 31°39′24″ N, long. 81°30′31″ W; to lat. 31°38′01″ N, long. 81°28′59″ W; to lat. 31°37′31″ N, long. 81°28′14″ W; to lat. 31°32′31″ N, long. 81°27′29″ W; to lat. 31°26′16″ N, long. 81°31′29″ W; to lat. 31°25′26″ N, long. 81°36′05″ W; thence northwest along the Altamaha River to the point of beginning.

R–3007E Townsend, GA [New]

Boundaries. Beginning at lat. 31°39′24″ N, long. 81°30′31′ W; to lat. 31°38′01″ N, long. 81°28′59″ W; to lat. 31°33′18″ N, long. 81°31′13″ W; thence counterclockwise along a 1-NM radius arc from a point centered at lat. 31°32′26″ N, long. 81°31′49″ W; to lat. 31°33′07″ N, long. 81°32′41″ W; to lat. 31°34′17″ N, long. 81°31′56″ W; to lat. 31°36′35″ N, long. 81°31′15″ W; to lat. 31°37′49″ N; long. 81°30′56″ W; to the point of beginning.

Designated altitudes. 100 feet AGL to but not including 13,000 feet MSL.

Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. USMC, Marine Corps Air Station Beaufort, SC.

Issued in Washington, DC, on August 20, 2018.

Rodger A. Dean, Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2018–18510 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038–AE56

Chief Compliance Officer Duties and Annual Report Requirements for Futures Commission Merchants, Swap Dealers, and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is amending its regulations regarding certain duties of chief compliance officers (''CCOs'') of swap dealers (''SDs''), major swap participants (''MSPs''), and futures commission merchants (''FCMs'') (collectively, ''Registrants''); and certain requirements for preparing, certifying, and furnishing to the Commission an annual report containing an assessment of the Registrant's compliance activities.

DATES: This rule is effective September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Matthew Kulkin, Director, 202–418–5213, *mkulkin@cftc.gov*; Erik Remmler, Deputy Director, 202–418–7630, *eremmler@cftc.gov*; Pamela M. Geraghty, Special Counsel, 202–418–5634, *pgeraghty@cftc.gov*; or Fern B. Simmons, Special Counsel, 202–418–5901, *fsimmons@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

As amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''),[1] sections 4d(d) and 4s(k) of the Commodity Exchange Act (''CEA'' or ''Act'') require each Registrant to designate an individual to serve as its CCO.[2] Sections 4s(k)(2) and (3) set forth certain requirements and duties for CCOs of SDs and MSPs, including the requirement to prepare and sign an annual compliance report (''CCO Annual Report'').[3] CEA section 4d(d) requires CCOs of FCMs to ''perform such duties and responsibilities'' as are established by Commission regulation or the rules of a registered futures association.[4] On November 19, 2010, the Commission proposed regulations implementing the CCO requirements,[5] and in April 2012, the Commission adopted the final CCO regulations (''CCO Rules Adopting Release'').[6] For purposes of this release, § 3.3 [7] and the related definitions in § 3.1 of the Commission's regulations are herein referred to as the ''CCO Rules.''

B. The Proposal

On May 8, 2017, the Commission published for public comment a Notice of Proposed Rulemaking (''Proposal'') [8] to amend the CCO Rules. In particular, the Proposal addressed certain CCO duties and requirements for preparing and furnishing the CCO Annual Report. The Proposal sought to incorporate knowledge gained through Commission staff's experience in administering the implementation of § 3.3 and to more closely harmonize certain provisions with corresponding Securities and Exchange Commission (''SEC'') rules for CCOs of security-based swap dealers and major security-based swap participants (collectively, ''SEC Registrants'').[9]

To provide greater clarity regarding the CCO reporting line required by section 4s(k)(2)(A) of the Act and § 3.3(a)(1), the Commission proposed to define ''senior officer'' in § 3.1 as ''the chief executive officer or other equivalent officer of a registrant.'' With regard to CCO duties, the Proposal would include additional language in § 3.3(d)(1) to clarify that the CCO's duty with respect to administering policies and procedures would be specific to the Registrant's business as an SD, MSP, or FCM, as applicable.[10] The Proposal would also modify the language in § 3.3(d)(2) to clarify that the CCO must take ''reasonable steps'' to resolve conflicts of interest, and to require in § 3.3(d)(3) that a CCO take reasonable steps to ensure compliance with the Act and Commission regulations by, among other things, ''ensuring the registrant establishes, maintains, and reviews written policies and procedures reasonably designed to achieve compliance.'' The Commission further proposed to amend § 3.3(d)(4) and (5) to remove the requirement in each provision that the CCO consult with the board of directors or senior officer in connection with establishing procedures for addressing noncompliance issues. The Proposal also would clarify that policies and procedures are to be ''reasonably designed'' to achieve their stated purpose, and would amend § 3.3(d)(4) to include remediating matters identified ''through any means.''

Regarding the CCO Annual Report requirements, the Proposal would clarify § 3.3(e) by eliminating the requirement that a Registrant address ''each'' applicable CFTC regulatory requirement to which it is subject when assessing its written policies and procedures (''WPPs''). Additionally, the Commission proposed to clarify that the CCO Annual Report's discussion of compliance resources be limited to a discussion of resources for the specific activities for which the Registrant is registered. Finally, the Proposal would amend § 3.3(f)(1) to add the Registrant's audit committee (or equivalent body) as a required recipient of the CCO Annual Report in addition to the board of directors and the senior officer.

C. Harmonization With SEC Regulations

Using language identical to CEA section 4s(k), the Dodd-Frank Act amended the Securities Exchange Act of 1934 by adding section 15F(k) to establish CCO requirements for SEC Registrants.[11] In compliance with sections 712(a)(1)–(2) of the Dodd-Frank Act, the Commission and SEC staffs consulted and coordinated together, and with prudential regulators, in developing the respective CCO rules for purposes of regulatory consistency.[12]

The SEC initially proposed rule 15Fk–1 to implement CCO requirements and duties for SEC Registrants in July

[1] *See* Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] 7 U.S.C. 6d(d) and 6s(k)(1).

[3] 7 U.S.C. 6s(k)(2) and (3).

[4] 7 U.S.C. 6d(d).

[5] *See* Designation of a Chief Compliance Officer; Required Compliance Policies; and Annual Report of a Futures Commission Merchant, Swap Dealer, or Major Swap Participant, 75 FR 70881 (proposed Nov. 19, 2010).

[6] 17 CFR 3.3(d)–(f). *See* Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules, 77 FR 20128 (Apr. 3, 2012).

[7] 17 CFR 3.3 (2017). Commission regulations are found at 17 CFR chapter I, and may be accessed through the Commission's website, *www.cftc.gov.*

[8] Chief Compliance Officer Duties and Annual Report Requirements for Futures Commission Merchants, Swap Dealers, and Major Swap Participants; Amendments, 82 FR 21330 (proposed May 8, 2017).

[9] *See* Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, 81 FR 29960 (May 13, 2016) (''SEC Adopting Release'').

[10] As noted in the Proposal, the change to referencing the Registrant's business as an SD or MSP is not intended to affect the scope of the duties of the CCO. 82 FR at 21332 (Citing the CCO Rules Adopting Release, 77 FR 20158 (''[T]he Commission is clarifying in the final rules that the CCO's duties extend only to the activities of the registrant that are regulated by the Commission, namely swaps activities of SDs and MSPs and the derivatives activities included in the definition of FCM under section 1(a)(28) of the CEA.'')).

[11] 15 U.S.C. 78o–10(k).

[12] Public Law 111–203, 124 Stat. 1376, 1641–1642 (codified at 15 U.S.C. 8302(a)(1)–(2)).

2011.[13] In May 2013, after the CFTC adopted the CCO Rules, the SEC re-opened the comment period for its outstanding Dodd-Frank Act Title VII rulemakings, including rule 15Fk–1.[14] SEC staff continued to consult with CFTC staff leading up to the adoption of rule 15Fk–1 in May 2016.[15]

While the CFTC regulates derivatives markets and the SEC regulates securities markets, many of the participants in these markets are the same. Similar activities in these markets are often regulated by each agency in similar ways under similar statutory mandates.[16] In this regard, the CFTC and SEC have taken steps through ongoing communication and coordination to harmonize similar regulations, including the regulations addressed in this release.

Several of the proposed amendments would further harmonize CFTC and SEC regulations. More specifically, the following provisions in the Proposal align the CFTC CCO regulations with the corresponding SEC CCO regulations:

- Including a definition of ''senior officer'' in § 3.1 that is identical to the SEC's definition;
- Including additional language in § 3.3(d)(1) to clarify that the CCO's duty with respect to administering policies and procedures would be specific to the Registrant's business as an SD, MSP, or FCM, as applicable;
- Modifying the language in § 3.3(d)(2) to require reasonable steps be taken to resolve conflicts of interest;
- Requiring the CCO to identify noncompliance issues ''through any means'';
- Removing the additional requirement in § 3.3(d)(4) and (5) that the CCO consult with the board of directors or senior officer in connection with establishing procedures for addressing noncompliance issues; and
- Replacing the requirement in § 3.3(e) that a Registrant address ''each'' applicable CFTC regulatory requirement to which it is subject when assessing its WPPs with a requirement to address the applicable regulations generally.

Furthermore, in the Proposal, the Commission solicited comments regarding potential additional rule changes that would further harmonize the CFTC and SEC regulations. After careful review of the comments received, the final rule includes the following additional harmonizing amendments:

- In § 3.3(d)(2), the CCO must take reasonable steps to resolve any ''material'' conflicts of interest;
- In § 3.3(d)(4), the CCO must ''take reasonable steps to ensure the registrant'' establishes, maintains, and reviews written policies and procedures for the remediation of noncompliance issues;
- In § 3.3(d)(5), the CCO must ''take reasonable steps to ensure the registrant'' establishes written procedures for the handling of noncompliance issues; and
- In § 3.3(f)(3), the CCO Annual Report certification includes language from the certifying individual that the CCO Annual Report is accurate and complete ''in all material respects.''

II. Summary of Comments

The Commission received eleven comment letters and Commission staff participated in one ex parte teleconference concerning the Proposal.[17] The majority of commenters generally supported the Commission's efforts to clarify the role and duties of the CCO, reduce burdens associated with preparing the CCO Annual Report, and further harmonize the CCO Rules with parallel SEC rules. One commenter expressed general support for the proposed modifications and recognition of the Commission's efforts as a meaningful step towards increasing regulatory certainty.[18] Another commenter expressed concern that a number of the proposals weaken the CCO regulatory regime (by, among other things, reducing CCO accountability).[19] Two comments exclusively sought clarity on the Proposal's impact on the continued ability of non-U.S. SDs to benefit from the Commission's substituted compliance determinations that pertain to § 3.3.[20] Some commenters cautioned against complete harmonization with the SEC regarding the requirement to furnish the CCO Annual Report, but requested more complete alignment in other areas addressing the role and duties of the CCO.[21] As outlined below, several commenters suggested modifications to the rule text and requested further interpretive guidance regarding the role and duties of the CCO and CCO Annual Report content.[22] Additionally, several commenters suggested modifications to the rule text to add a materiality qualifier to the CCO Annual Report certification.[23] For the reasons provided below, the Commission accepted some of these recommendations in the amendments, as adopted, and accompanying guidance, and declined to accept certain other recommendations.

III. Final Rule

A. Regulation 3.1—Definitions

1. Regulation 3.1(j)—''Senior Officer''

The Commission proposed to define ''senior officer'' in § 3.1 as ''the chief executive officer or other equivalent officer of a registrant.'' The Commission received four comments addressing the proposed definition.[24] Chris Barnard and Better Markets supported the proposed definition. FIA/SIFMA requested that the Commission address the variety of organizational structures present among Registrants and define ''senior officer'' to include ''a more senior officer within the Registrant's group-wide compliance, risk, legal or other control function who in turn reports to the holding company's board of directors or CEO (or equivalent officer).''[25] FIA/SIFMA further requested that the Commission expand its interpretation of the phrase ''other equivalent officer'' to include the most senior officer of a Registrant with supervisory responsibility for all of the

[13] *See* Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, 76 FR 42396 (proposed Jul. 18, 2011).

[14] *See* Reopening of Comment Periods for Certain Rulemaking Releases and Policy Statement Applicable to Security-Based Swaps, 78 FR 30800 (May 23, 2013).

[15] 17 CFR 240.15Fk–1. *See* SEC Adopting Release, 81 FR 29960.

[16] For example, the provisions of the Dodd-Frank Act that provide for establishing regulations for swap dealers by the CFTC are nearly identical to most of the provisions of the Dodd-Frank Act that provide for establishing regulations for security-based swap dealers by the SEC. *See* Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376, 1711–1712, 1793 (2010) (codified at 7 U.S.C. 6s and 15 U.S.C. 78o–10).

[17] Comment letters were submitted by the following entities: Allen & Overy LLP; Automated Compliance Management, LLC (''ACM''); Better Markets; Chris Barnard; Futures Industry Association and Securities Industry and Financial Markets Association (''FIA/SIFMA''); International Swaps and Derivatives Association (ISDA); Japanese Bankers Association (''JBA''); National Futures Association (''NFA''); the Natural Gas Supply Association (''NGSA''); Paws Nutritional Org.; and TD Ameritrade Futures and Forex LLC (''TD Ameritrade''). All comment letters are available on the Commission's website at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1811.*

[18] *See* NGSA comment letter.

[19] *See* Better Markets comment letter.

[20] *See* Allen & Overy and JBA comment letters.

[21] *See, e.g.,* FIA/SIFMA and ISDA comment letters.

[22] *See, e.g.,* Better Markets, FIA/SIFMA, ISDA, NFA, and TD Ameritrade comment letters.

[23] *See* FIA/SIFMA, ISDA, and NFA comment letters.

[24] *See* Chris Barnard, Better Markets, ISDA, and FIA/SIFMA comment letters.

[25] *See* FIA/SIFMA comment letter. Similarly, while TD Ameritrade did not comment directly on the proposed definition, it requested that the Commission consider including a variety of senior roles at a Registrant for inclusion in the definition of ''other equivalent officer'' for purposes of allowing the CCO to report to someone other than the CEO.

Registrant's business as an FCM, SD, or MSP. ISDA expressed support for the Commission's proposed definition, but requested the Commission provide Registrants the ability to determine individually who would qualify as an ''equivalent officer.''

Upon consideration of the comments, the Commission is adopting the definition as proposed. This definition of ''senior officer'' clarifies the Commission's long-standing interpretation that compliance with the statutory requirement to have the CCO ''*report directly* to the board or to the senior officer'' [26] requires a CCO to have a *direct reporting line* to the board of directors or the highest executive officer in the legal entity that is the Registrant.[27]

As stated in the Proposal, the ''chief executive officer'' is typically the highest executive level, but the Commission is including in the definition the phrase ''other equivalent officer'' to address Registrants who may have a different title for the highest executive officer.[28] This approach is also consistent with the SEC's definition of ''senior officer'' in SEC rule 15Fk–1(e)(2), and is intended to ensure the CCO's independence from influence, interference, or retaliation.[29] The Commission is also declining to broaden its definition of ''senior officer'' or expand its interpretation of ''other equivalent officer.'' The Commission notes that the definition of ''senior officer,'' as adopted, does not preclude additional CCO reporting lines that Registrants may wish to implement for practical day-to-day oversight.[30]

In response to ISDA's comment, the Commission believes that the definition and guidance provide sufficient flexibility. Registrants should be able to ensure that regardless of a firm's chosen nomenclature, the CCO has a direct reporting line to the highest executive-level individual at the Registrant.

2. Other Definitions

In response to the Commission's request for comment regarding whether other definitions should be added to § 3.1, FIA/SIFMA requested that the Commission define ''material noncompliance issue'' as it relates to the requirement in § 3.3(e)(5) to describe in the CCO Annual Report ''any material noncompliance issues identified and the corresponding action taken.'' The Commission is declining to define ''material noncompliance issue'' at this time. Since the adoption of the CCO Rules, Registrants have defined and implemented their own materiality standards when categorizing non-compliance issues. Given the variation in size and nature of businesses among Registrants required to submit CCO Annual Reports, it is the Commission's view that materiality is dependent upon many factors that impact Registrants to varying degrees. While some factors ought to be considered by all Registrants, *e.g.,* whether the issue may involve a violation of the CEA or a Commission regulation, there is no ''one size fits all'' approach. Indeed, setting forth a standard of materiality could result in an overly prescriptive model for many Registrants. Based on experience in overseeing the implementation of § 3.3(e), Commission staff believes that Registrants have generally developed and applied adequate internal materiality standards for purposes of the CCO Annual Report.

B. Regulation 3.3(d)—Chief Compliance Officer Duties

1. Regulation 3.3(d)(1)—Duty To Administer Compliance Policies and Procedures

The Commission proposed to amend § 3.3(d)(1) to require that a CCO's duties include administering each of the registrant's policies and procedures relating to its business as a futures commission merchant, swap dealer, or major swap participant that are required to be established pursuant to the Act and Commission regulations.

ISDA and FIA/SIFMA generally supported the Commission's proposed changes [31] and recommended that the Commission further harmonize § 3.3(d)(1) with the SEC's CCO rules. Specifically, ISDA and FIA/SIFMA recommended that the Commission should clarify in guidance that the duty to administer policies and procedures means reviewing, evaluating, and advising the Registrant on its compliance policies and procedures.[32] Alternatively, ISDA proposed that the Commission strike the term ''administering each'' from § 3.3(d)(1), and replace it with ''reviewing, evaluating, and advising the registrant on the development, implementation, and monitoring'' of the Registrant's compliance policies and procedures. ISDA asserted that the current proposed language creates an undue burden on CCOs who do not necessarily ''administer'' or execute each policy and/or procedure relating to an applicable CFTC rule. Rather, ISDA explained, various business units and control functions within a firm establish policies and procedures for their respective areas, with the ultimate supervisory authority residing with the CEO or other senior officer.

After considering the comments received, the Commission is adopting § 3.3(d)(1) as proposed. As the Commission has previously stated, and as discussed below, the role of the CCO, under the Dodd-Frank Act, goes beyond the customary and traditional advisory role of a CCO and requires more active engagement.[33] The Commission expects the CCO to be actively engaged in administering a firm's compliance policies and procedures, as described further below.

The language of § 3.3(d)(1), however, is not intended to diminish the role and direct involvement of other senior officers, supervisors and other employees with more direct knowledge, expertise, and responsibilities for various regulated activities within their business lines. Thus, while the CCO plays a central role in administering a firm's policies and procedures, other personnel may implement the procedures on a day-to-day basis when undertaking related activities in the normal course of business.

Furthermore, the Commission reiterates that the Registrant is ultimately responsible for the effective implementation of the policies and procedures.[34] In response to ISDA and FIA/SIFMA's request for clarification on the CCO's duty to administer policies and procedures, it is the Commission's view that a CCO may, in many circumstances, be able to fulfill his or her role through actively engaging in processes involving ''reviewing, evaluating, and advising'' on policies and procedures and compliance matters, while others in the organization are

[26] 7 U.S.C. 6s(k)(2)(A) (emphasis added).

[27] *See* CCO Rules Adopting Release, 77 FR at 20188. This concept was incorporated in § 3.3 and therefore applies to FCMs equally.

[28] Proposal, 82 FR at 21331. For example, some firms do not have a chief executive officer, but instead give the highest level executive the title of ''president,'' ''member,'' or ''general partner.''

[29] *Id. See also* CCO Rules Adopting Release, 77 FR at 20188.

[30] *See* CFTC Staff Advisory No. 16–62 (Jul. 25, 2016), available at *https://www.cftc.gov/idc/groups/public/%40lrlettergeneral/documents/letter/16-62.pdf.*

[31] NFA also endorsed the proposed amendment to § 3.3(d)(1). *See* NFA comment letter.

[32] *See* SEC Adopting Release, 81 FR at 30057.

[33] *See* CCO Rules Adopting Release, 77 FR at 20162. (''In response to comments advocating a purely advisory role for the CCO, the Commission observes that the role of the CCO required under the CEA, as amended by the Dodd-Frank Act, goes beyond what has been represented by commenters as the customary and traditional role of a compliance officer.'')

[34] *See* 75 FR 70881, 70883 (proposed Nov. 19, 2010). The CCO's duty to administer policies and procedures does not ''otherwise contradict well-established tenets of law regarding the allocation of responsibility within a business association.''

responsible for the daily implementation thereof. However, if, in the normal course, the CCO becomes aware (or reasonably should have been aware) of significant issues that are not being addressed in a reasonably satisfactory manner, the CCO is expected to take further action to address those issues. Importantly, for such circumstances, CEA section 4s(k)(2)(A) provides the CCO with a reporting line directly to the board or the senior officer. Accordingly, it may be appropriate for the CCO, depending on the facts and circumstances, to use that reporting line to elevate any such significant issues that have not been otherwise addressed satisfactorily. Through this active engagement and, if appropriate, utilizing the available escalation measures described above, the CCO may be able to demonstrate that he or she has fulfilled the role assigned to him or her under the regulation.

2. Regulation 3.3(d)(2)—Duty To Resolve Conflicts of Interest

Proposed § 3.3(d)(2) would require the CCO, in consultation with the board of directors or the senior officer, to take reasonable steps to resolve any conflicts of interest that may arise. ISDA and FIA/SIFMA supported the proposed revisions to § 3.3(d)(2) and provided additional recommendations. Both commenters recommended that the CCO's duty to resolve conflicts of interest should be limited to ''material'' conflicts of interest and should apply only to issues that arise in connection with the Registrant's business as an FCM, SD, or MSP. ISDA suggested that, consistent with the SEC's view, the Commission should explicitly state that the primary responsibility to resolve conflicts of interest falls on the Registrant and that the CCO's role would include identifying, advising, and escalating, as appropriate, to senior officers matters involving conflicts of interest. ISDA further suggested that the Commission replace ''resolve'' with ''minimize'' in the rule text. Similarly, FIA/SIFMA recommended that the Commission clarify that ''resolution'' involves either negation or mitigation of the conflict of interest.

Better Markets generally did not support the Commission's proposed changes to § 3.3(d)(2). Among other reasons, Better Markets is of the view that the proposed changes are not consistent with applicable statutory language to ''resolve any conflicts'' and will dilute the CCO's duty to address conflicts of interest.

Having considered these comments, the Commission is adopting § 3.3(d)(2) as proposed but with further modifications to provide that CCOs have a duty to take reasonable steps to resolve ''material'' conflicts of interest ''relating to the registrant's business as a futures commission merchant, swap dealer, or major swap participant.'' The additional language refines the Commission's view that CCOs cannot reasonably be expected to personally resolve every potential conflict of interest that may arise, and the Commission affirms that ''routinely encountered conflicts could be resolved in the normal course of business . . .'' consistent with the CCO's general administration of internal policies and procedures, which must include conflicts of interest policies.[35] Requiring the CCO to resolve every conflict of interest, including non-material conflicts, in consultation with the board of directors or the senior officer would potentially take too much of the CCO's and senior management's time away from other necessary activities when non-material conflicts can usually be resolved effectively by other staff in the normal course of business. The Commission believes that this is consistent with the underlying objective of this provision, which imposes a duty on CCOs to resolve matters under the Act and Commission regulations within the practical limits of their position at the Registrant. The Commission believes that the additional language does not dilute the CCO's duty to address conflicts of interest, and that the rule as amended fulfills the purposes of CEA section 4s(k).[36] Rather than spreading time and resources over many conflict issues—both material and non-material—the changes will allow the CCO to focus his or her time and resources on the material conflict issues, and more broadly, the other important compliance duties required by regulation. The Commission is also of the view that amending § 3.3(d)(2) to limit the scope of the CCO's responsibility to conflicts relating to the Registrant's business as an FCM, SD, or MSP clarifies that CCOs have a duty to resolve matters under the Act and Commission regulations, rather than any conflict that ''may arise.''

The Commission declines to implement comments suggesting that CCOs have a duty to simply minimize, rather than ''resolve'' conflicts of interest. CEA section 4s(k)(2)(C) explicitly requires conflict resolution.[37] While resolution can include the mitigation of conflicts to the point where they are no longer material, resolution also encompasses the elimination of conflicts if reasonably practicable.[38]

In response to ISDA's request that the Commission state that a CCO's role in resolving conflicts would involve identifying, advising on, and escalating to management conflicts of interest, the Commission is declining to incorporate that language into the regulatory text. However, the Commission believes that such an approach provides a reasonable framework for CCOs to use in fulfilling their duty to take reasonable steps to resolve material conflicts of interest. As the Commission has previously acknowledged, active engagement ''may involve actions other than making the final decision.'' [39]

Should CCOs choose to incorporate the ''identify, advise and escalate'' framework into their conflict resolution procedures, however, a passive implementation of that framework should not be viewed as fulfilling the CCO's duties for conflict resolution. The requirement to ''take reasonable steps'' requires an active role in the conflict resolution process, including, for example: (1) Direct involvement of the CCO in developing and implementing active processes for conflict identification, evaluation, and resolution; (2) advising on the effectiveness of alternatives to mitigate or eliminate conflicts; and (3) escalating conflict issues if the conflicts are not otherwise resolved or mitigated as required by § 3.3(d)(2), including through the CCO's direct reporting line to the board of directors or the senior officer if necessary or appropriate.

The Commission believes that the determination of what is a ''material'' conflict for a particular Registrant should be assessed based on the facts and circumstances relevant to that Registrant and the conflict. Although the Commission notes that there are some conflicts that are typically treated as material,[40] the Commission declines

[35] *See* Proposal, 82 FR at 21332. The addition of a materiality qualifier also further harmonizes § 3.3(d)(2) with the SEC's parallel CCO rule. *See* 17 CFR 240.15Fk–1(b)(3).

[36] *See* 77 FR at 21332 (''If strictly interpreted, the current rule text creates an undue burden on CCOs, likely taking them away from more important compliance activities.'')

[37] *See* 7 U.S.C. 6s(k)(2)(C).

[38] *See* CCO Rules Adopting Release, 77 FR at 20161.

[39] *Id.*

[40] For example, similar to the SEC's approach, conflicts between the business interests of a Registrant and its regulatory requirements, and conflicts between or with associated persons of a Registrant are often material. *See* SEC Adopting Release, 81 FR 29960 at 30056–30057 (''Such conflicts of interest could include conflicts between the commercial interests of an SBS Entity and its statutory and regulatory responsibilities, and

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at this time to define materiality in this context to avoid creating an unintentionally prescriptive model. The Commission expects each Registrant to develop its own appropriate standard or procedure for determining if a conflict is ''material'' for purposes of the rule.

3. Regulation 3.3(d)(3)—Duty To Ensure Compliance

The Proposal would make a wording change to § 3.3(d)(3) to simplify the text[41] and to add that a CCO's duty in § 3.3(d)(3) to ensure compliance with the Act and the Commission's regulations includes ''ensuring the registrant establishes, maintains, and reviews WPPs reasonably designed to achieve compliance.''

ISDA and FIA/SIFMA recommended that the Commission further harmonize paragraph (d)(3) with the SEC's corresponding rule by removing the existing general duty for the CCO to take reasonable steps to ensure compliance and only require the CCO to ensure that the Registrant establishes, maintains, and reviews policies and procedures as the CCO's duty.[42] ISDA and FIA/SIFMA also asserted that the change would address uncertainty regarding the breadth of a CCO's supervisory authority and concerns that ensuring compliance is an impracticable requirement for CCOs.

TD Ameritrade commented that the Commission should align paragraph (d)(3) with FINRA Rule 3130 by clarifying that the CCO is required to ''have processes in place'' for the Registrant to establish, maintain, and review WPPs reasonably designed to achieve compliance. TD Ameritrade contended that the proposed language in paragraph (d)(3), which requires CCOs to ensure compliance, rather than simply have processes in place, is cumbersome and perhaps places a higher burden on CCOs than intended by the Commission.

Better Markets commented that the proposed amendment to paragraph (d)(3) could be viewed as defining the full scope of the CCO's duty to ensure compliance, rather than merely clarifying the extent of the duty. Better Markets noted that the duty to ensure compliance is broad and cannot be equated with a CCO's obligation to administer policies and procedures. To eliminate uncertainty, Better Markets recommended further clarifying that the additional language is ''without limitation.''[43]

Having considered the totality of the responses received, the Commission believes that the proposed amendment to § 3.3(d)(3) adding that the duty includes ''ensuring the registrant establishes, maintains, and reviews WPPs reasonably designed to achieve compliance'' creates ambiguity, rather than clarity, with respect to the scope of a CCO's duty to ensure compliance. Therefore, the Commission is declining to adopt that proposed amendment to § 3.3(d)(3).[44] A CCO's duty in § 3.3(d)(3) to ensure compliance with the Act and Commission regulations therefore remains the same as adopted in the CCO Rules Adopting Release.

Current § 3.3(d)(3) implements CEA section 4s(k)(2)(E). CEA section 4s(k)(2)(E) requires that the CCO shall ensure compliance with the Act (including regulations) relating to swaps, including each rule prescribed by the Commission under that section. Thus, the Commission believes § 3.3(d)(3) requires more than, as suggested by some commenters, simply taking reasonable steps to ensure the Registrant establishes, maintains, and reviews written compliance policies and procedures.[45] The Commission, however, acknowledges commenters' concerns regarding the uncertainty as to the breadth of a CCO's responsibility and the practicality of broad expectations for the CCO in this regard given the wide variety of swap dealing and other activities undertaken by different Registrants. When finalizing § 3.3(d)(3), the Commission recognized that requiring a CCO to ''ensure compliance'' could be an impracticable standard and limited the CCO's duty to ''taking reasonable steps to ensure compliance.''[46] At the time, however, the Commission did not provide guidance on what ''taking reasonable steps to ensure compliance'' means. Accordingly, the Commission is taking this opportunity, with the benefit of several years of experience implementing the CCO Rules, to provide further guidance as to the breadth of the CCO obligations under § 3.3(d)(3) and the practical expectations for fulfilling those obligations.

As stated by the Commission previously, the CCO's duty to take reasonable steps to ensure compliance includes active engagement in the day-to-day implementation of compliance policies and procedures.[47] This engagement would likely include a reasonable level of involvement in compliance monitoring, identifying non-compliance or potential non-compliance events, advising on the mitigation and correction of compliance activities, and, where necessary, escalating significant matters that require senior management attention.[48] Whether the CCO's activities constitute ''reasonable steps'' depends on the facts and circumstances of the Registrant's related business activities, such as the size of the business, the diversity and complexity of the swaps or FCM activities, and the overlap with other compliance activities in the firm (*e.g.,* where swap dealing activities may be contained within business lines that are subject to additional regulation outside the CEA).

In taking reasonable steps to ensure compliance, the Commission believes that a CCO cannot reasonably be expected to have sole and complete responsibility for ensuring compliance with the Act and the relevant regulations.[49] As such, § 3.3(d)(3) does not require the CCO to guarantee compliance or be granted final supervisory authority.[50] The regulation does not diminish the role and direct involvement of other senior officers, supervisors, and employees with more direct knowledge, expertise, and responsibilities for the regulated business activities to effect compliance. As such, the Commission is of the view that a CCO may reasonably rely on these personnel to implement many of the policies and procedures needed to ensure compliance as part of their regular business activities (in this regard, such personnel are sometimes referred to as the ''first line'' of compliance).[51] The Commission also

conflicts between, among, or with associated persons of the SBS Entity.'').

[41] The Proposal would change the words ''. . . relating to the swap dealer's or major swap participant's activities, or to the future commission merchant's business as a futures commission merchant'' to ''. . . relating to the registrant's business as a futures commission merchant, swap dealer or major swap participant.''

[42] *See* FIA/SIFMA and ISDA comment letters (emphasis added). *See also* 17 CFR 240.15Fk–1(b)(2).

[43] Better Markets comment letter.

[44] The proposed non-substantive change that simplifies the wording of § 3.3(d)(3) is being adopted for the reasons stated in the Proposal.

[45] *See* 7 U.S.C. 6s(k)(2)(E) (requiring the CCO to ensure compliance with the Act (including regulations) relating to swaps, including each rule prescribed by the Commission under that section).

[46] *See* CCO Rules Adopting Release, 77 FR at 20162.

[47] *See* supra at note 33.

[48] For example, escalation could be to the board or the senior officer to whom the CCO reports either through the CCO Annual Report, annual or more frequent meetings, or other mechanisms.

[49] *See* 75 FR at 70883 (''The chief compliance officer can only ensure the registrant's compliance to the full capacity of an individual person . . .'').

[50] *See* CCO Rules Adopting Release, 77 FR at 20162 (''[T]he Commission does not believe . . . that the CCO's duties under the CEA or § 3.3 requires that the CCO be granted ultimate supervisory authority by a registrant.'').

[51] For example, in working with other personnel at the Registrant, it would be reasonable to expect

notes that, pursuant to § 3.3(a)(1), the CCO has a direct reporting line to the board or the senior officer of the Registrant. To the extent the CCO determines that he or she cannot fulfill the duty established in § 3.3(d)(3) because of the actions or inaction of others, a lack of resources, or otherwise, the CCO has an avenue for escalating these issues to the highest level of management within the Registrant. In doing so, the CCO may be able to demonstrate that he or she has taken reasonable steps to fulfill the duty created in § 3.3(d)(3).

4. Regulation 3.3(d)(4) and (5)—Duty To Remediate Noncompliance Issues

The Commission proposed to amend § 3.3(d)(4) by adding language that the duty to remediate noncompliance issues identified by the CCO encompasses maintaining and reviewing, in addition to establishing, written policies and procedures. The Commission also proposed to amend § 3.3(d)(4) and (5) by removing the requirement that the CCO consult with the board of directors or senior officer in establishing: (1) Policies and procedures for the remediation of noncompliance issues identified by the CCO; and (2) procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues. The Proposal would also clarify that the policies and procedures should be ''reasonably designed'' to remediate noncompliance issues. Lastly, the Commission proposed to amend paragraph (d)(4) to include the remediation of matters identified ''through any means'' by the CCO, including the specific discovery methods already listed in § 3.3(d)(4). FIA/SIFMA generally supported the Commission's proposed amendments to paragraphs (d)(4) and (5), and requested that the Commission further add to paragraphs (d)(4) and (5) that the CCO's duty is to take ''reasonable steps to ensure that the registrant'' establishes the required policies and procedures for the remediation of noncompliance issues, rather than to be directly responsible for establishing the policies and procedures. FIA/SIFMA noted that this change, consistent with the SEC's CCO rules, reflects the fact that it is the responsibility of the Registrant, not the CCO in his or her personal capacity, to establish the specified policies and procedures.

Better Markets disagreed with the Commission's proposed changes. Better Markets contended that the removal of the board of directors and senior officer consultation requirement could marginalize the board of directors' role and send the message that the board of directors needs to be only occasionally involved in the remediation of noncompliance issues. Better Markets further asserted that the proposed change that policies and procedures be ''reasonably designed'' makes it easier for Registrants to meet their legal obligations without actually realizing the underlying regulatory goal of remediating noncompliance issues.

With respect to the specific noncompliance discovery methods listed in paragraph (d)(4), ISDA recommended that the Commission provide legal certainty to Registrants by clarifying that the term ''complaint that can be validated'' means ''a written complaint that can be supported upon a reasonable investigation.'' [52] ISDA noted that this clarification would further harmonize the Commission's CCO Rules with the SEC's, and would provide legal certainty with respect to which kinds of noncompliance issues need to be escalated to the CCO.

In light of the comments received, the Commission is adopting proposed paragraphs (d)(4) and (5) with additional modifications to clarify the Commission's position that the CCO's duty with respect to establishing the Registrant's noncompliance remediation policies and procedures is to take reasonable steps to ensure that the registrant fulfills that responsibility. Accordingly, § 3.3(d)(4) and (5), as adopted, require a CCO to take ''reasonable steps to ensure the registrant'' establishes, maintains and reviews the applicable policies and procedures. With respect to the other proposed amendments to paragraphs (d)(4) and (5), the Commission is adopting those amendments for the reasons discussed in the Proposal.

In response to the concern raised by Better Markets that removing the consultation clause will diminish the board of directors and senior officer role, the Commission believes that there are two reasons to maintain the proposed changes to § 3.3(d)(4) and (5). As discussed in the Proposal, the CCO should manage and remediate noncompliance issues in consultation, as appropriate, with personnel that are experts in these matters, including, if appropriate, senior management and the board of directors. Requiring further consultation with the board of directors or the senior officer on these procedures in the ordinary course would be an unnecessary burden on the Registrants. Furthermore, the Commission notes that, under § 3.3(a)(1), the CCO must report to the board of directors or the senior officer. Accordingly, to the extent the CCO is of the view that the policies and procedures being established do not meet the requirements of the Commission's regulations and is unable to effect the necessary changes through other means, it would be appropriate for the CCO, as a reasonable step for ensuring that the appropriate policies and procedures are established, to elevate the issue to the board of directors or the senior officer to whom the CCO reports. Thus, an appropriate avenue for consultation with the board of directors or the senior officer is already part of the regulatory requirements in the CCO Rules.

With respect to ISDA's recommendation that the Commission clarify the ''complaint that can be validated'' standard, the Commission declines to clarify the standard in the manner requested. The Commission believes that noncompliance should be a focus for CCOs, and accordingly, all noncompliance complaints, whether written or verbal, should be investigated using reasonable means. The Commission further notes that the CCO may identify noncompliance issues ''through any means'' and ''a complaint that can be validated'' is one of many ways in which a CCO may identify such issues.

C. Regulation 3.3(e)—CCO Annual Report

Below is a subsection-by-subsection review of the comments received on the proposed changes to the CCO Annual Report requirements and a description of the changes being adopted.[53] On December 22, 2014, CFTC staff issued Advisory No. 14–153 providing guidance to Registrants on the form and content requirements of the CCO Annual Reports (''CCO Annual Report Advisory''). In their comment letter, FIA/SIFMA requested that the Commission address the effect of the rule amendments on the guidance in the CCO Annual Report Advisory.

The Commission believes that providing updated guidance in concert

that a CCO would participate in (though not necessarily have sole or principal responsibility for implementing) the development and implementation of compliance training, monitoring and spot checking of first line compliance activities, the identification of possible compliance weaknesses, and the escalation to supervisors and senior management of the remediation or mitigation of weaknesses identified, as appropriate.

[52] ISDA comment letter.

[53] In connection with the proposed amendments, the Proposal also would renumber the paragraphs within § 3.3(e) and make other non-substantive changes related to the renumbering. Those changes are being adopted for the reasons stated in the Proposal.

with adopting the amendments to § 3.3(e) will help to increase the final rule's efficiency and clarity. Accordingly, the Commission is providing guidance regarding the CCO Annual Report in new Appendix C to Part 3, ''Guidance on the Application of Rule 3.3(e), Chief Compliance Officer Annual Report Form and Content.'' The CCO Annual Report Advisory is hereby superseded by this final release including the new Appendix C to Part 3. The Commission or its staff may issue updated guidance regarding the CCO Annual Report in the future based on experience gained as Registrants implement the amended content requirements.

1. Regulation 3.3(e)(1)—Description of the Registrant's WPPs

Section 3.3(e)(1) requires a CCO to describe the Registrant's WPPs, including its code of ethics and conflicts of interest (''COI'') policies. Proposed § 3.3(e)(1) sought to clarify that only the WPPs that relate to a Registrant's business as an FCM, SD, or MSP must be described in the CCO Annual Report by adding text referring to the policies and procedures described in § 3.3(d). The Commission did not receive any comments specific to proposed § 3.3(e)(1),[54] and is adopting amended § 3.3(e)(1) as proposed.[55]

2. Regulation 3.3(e)(2)—Assessment of the Effectiveness of the Policies and Procedures

Proposed § 3.3(e)(2) would eliminate the express mandate to identify and assess the effectiveness of each WPP for each regulatory requirement under the CEA and Commission regulations in the CCO Annual Report. The Commission received six comments regarding this proposed amendment. FIA/SIFMA, ISDA, NFA, and TD Ameritrade generally supported the change. Specifically, ISDA noted that the proposed revisions ''would strike a proper balance between providing the Commission with meaningful analyses of firms' compliance programs and conserving the time and resources of both the Commission and firms.'' [56] Similarly, NFA stated, ''NFA believes it will improve the quality of the report by allowing firms to focus on providing meaningful summaries of their WPPs, together with a detailed discussion of the annual assessment and recommended improvements.'' [57]

Better Markets opposed the proposed amendment and expressed its belief that the ''detailed assessment of the policies and procedures, relative to each specific regulatory requirement, is a valuable exercise that brings rigor to the process.'' [58] ACM explained that Registrants, using ACM's product, often obtain sub-certifications from subject matter experts within the firm for each applicable requirement. ACM sought clarification regarding whether the proposed amendment is intended to eliminate the requirement-by-requirement review.

The Commission has considered the comments and is adopting amended § 3.3(e)(2) as proposed. As adopted, the rule requires the CCO Annual Report to contain, among other things, a description of the CCO's assessment of the effectiveness of the Registrant's WPPs relating to its business as an FCM, SD, or MSP. In response to Better Markets and ACM, the Commission affirms that the rule, as amended, does not require the CCO Annual Report to contain an assessment of the WPPs' effectiveness with respect to *each* applicable requirement under the Act and regulations. However, the CCO must still conduct an underlying assessment of the policies and procedures to meet the requirements of the rule. The Commission affirms that Registrants may still rely on the use of sub-certifications or any other methodology they have previously employed to conduct the assessment of their compliance programs pursuant to § 3.3(d) and (e).

In further response to Better Markets' concern that removing the requirement-by-requirement assessment from the CCO Annual Report would weaken the self-assessment process, the Commission notes that the final rule does not remove a CCO's duty to undertake the review. The Commission believes that a robust and meaningful self-assessment process is maintained through the affirmative CCO duties to ensure review of the WPPs and to describe the CCO's assessment in the CCO Annual Report. Furthermore, as described in the Proposal, the Commission believes that reducing the burden associated with preparing the CCO Annual Report will permit CCOs and Registrants to both improve their compliance assessment processes and allocate more time and resources to more critical areas within the firm.

3. Regulation 3.3(e)(4)—Resources Set Aside for Compliance

Proposed § 3.3(e)(4) would clarify that the discussion of resources only need address those resources set aside for compliance activities that relate to the Registrant's business as an FCM, SD, or MSP. The Commission received comments from FIA/SIFMA, NFA, and ISDA generally supporting the proposed amendment. ISDA suggested that the Commission rescind related guidance in the CCO Annual Report Advisory regarding quantification of resources and allow Registrants to provide a narrative assessment of the sufficiency of compliance resources.[59] Similarly, FIA/SIFMA requested that the Commission state that Rule 3.3(e)(4) does not require specific numerical estimates.[60]

The Commission is adopting amended § 3.3(e)(4) as proposed. Regarding the description of compliance resources, the Commission previously addressed the issues raised by ISDA, FIA, and SIFMA in the CCO Rules Adopting Release. At the outset, the Commission has recognized that a primary purpose of the CCO Annual Report is to provide ''an efficient means to focus the registrant's board and senior management on areas requiring additional compliance resources.'' [61] A detailed discussion of the current state of compliance resources, including as appropriate, quantitative information, forms an integral part of a CCO Annual Report that, as the Commission stated, ''will help FCMs, SDs, MSPs and the Commission to assess whether the registrant has mechanisms in place to address adequately compliance problems that could lead to a failure of the registrant.'' [62] In requiring a description of the compliance resources in the CCO Annual Report, but not prescribing the description's form or manner (which is left to the Registrant's reasonable discretion) the Commission is balancing the need for context and critical information, and the potential burdens on the CCO in performing the underlying resources identification and analysis.[63]

The description of resources required by § 3.3(e)(4) is intended to inform the Registrant and the Commission as to the sufficiency of resources dedicated to

[54] Three commenters expressed general support of the proposed amendments to § 3.3(e). *See* TD Ameritrade, FIA/SIFMA, and ISDA comment letters.

[55] The Commission notes that § 3.3(e)(1) retains the statutory requirement in CEA section 4s(k)(3)(A)(ii), 7 U.S.C. 6s(k)(3)(A)(ii), to describe the Registrant's Conflict of Interest and Code of Ethics policies (if the Registrant had previously adopted a Code of Ethics).

[56] *See* ISDA comment letter.

[57] *See* NFA comment letter.

[58] *See* Better Markets comment letter.

[59] *See* ISDA comment letter.

[60] *See* FIA/SIFMA comment letter.

[61] *See* CCO Rules Adopting Release, 77 FR at 20190.

[62] *Id.* at 20193.

[63] *Id.* at 20164.

compliance. Moreover, by requiring inclusion in the CCO Annual Report, the Commission recognizes that the usefulness of this information may lie in the trends and impacts of isolated events that can be observed over time regarding staffing levels, financial resources devoted to compliance, or the addition or subtraction of operational or technological resources. Some of the categories of resources CCOs are required to describe under § 3.3(e)(4) are, by their nature, quantitative (*e.g.,* number of compliance personnel and budgetary information). However, the Commission also recognizes that, depending on a Registrant's structure and the nature of its business, a quantitative description may include approximations and estimates. It is the Commission's view that, in complying with § 3.3(e)(4), each Registrant should focus on whether its CCO Annual Report is effectively providing its senior leadership and the Commission with the ability to reasonably assess the state of the Registrant's compliance resources, irrespective of how it expresses the quantitative information.

D. Regulation 3.3(f)—Furnishing the CCO Annual Report and Related Matters

In view of the comments received on proposed § 3.3(f) and related matters, the Commission is making a number of changes described below. As a general matter, to provide the reader greater clarity, the Commission is adding descriptive paragraph headings to § 3.3(f)(1) through (6) for the final rule.

1. Regulation 3.3(f)(1)—Furnishing the CCO Annual Report

Proposed § 3.3(f)(1) would harmonize the requirements under the SEC and CFTC CCO Rules to require that the CCO Annual Report be furnished to all members of the board of directors, senior officer, and audit committee (or equivalent body) prior to being furnished to the Commission.

The Commission received three comments addressing the proposed amendment. Better Markets supported the proposed amendment as a means to strengthen the CCO framework. ISDA and FIA/SIFMA opposed the amendment and asserted that it is burdensome and unnecessary in light of the variability among Registrants. Specifically, ISDA and FIA/SIFMA commented that the proposed amendment would add burdens and costs given that the audit committees and boards of directors do not necessarily meet prior to the deadline to file the CCO Annual Report with the Commission.[64] FIA/SIFMA also contended that harmonization with the SEC is not appropriate for this rule because there is greater variety of corporate forms and organizational structures among FCMs, SDs, and MSPs than SEC-regulated entities and the change may raise questions for those Registrants that do not have a board of directors or audit committee. Additionally, FIA/SIFMA asserted the board of directors of an SD that is part of a large, diversified commercial bank may already have full meeting agendas that do not warrant the addition of another board obligation. Alternatively, ISDA and FIA/SIFMA commented that if the Commission decided to adopt the proposed amendment, it should make appropriate modifications to accommodate existing board and audit committee meeting schedules. FIA/SIFMA also sought further clarification that the rule would not require a Registrant to establish a board of directors or audit committee, and that it could be satisfied through submission to certain other equivalent personnel.

After considering commenters' concerns, the Commission has determined to retain the current approach in § 3.3(f)(1) to require the CCO to provide the annual report to the board of directors *or* the senior officer prior to furnishing it to the Commission.[65] The Commission, however, is also adopting a modified version of proposed § 3.3(f)(1) with respect to furnishing the CCO Annual Report to the audit committee (or equivalent body). In response to comments, § 3.3(f)(1)(ii), as adopted, requires that the CCO Annual Report must be furnished to the audit committee (or equivalent body), if the Registrant has such a committee. In addition, if the Registrant has an audit committee (or equivalent body), then the CCO Annual Report must be furnished to that committee not later than its next scheduled meeting after the date on which the CCO Annual Report is furnished to the Commission, but in no event more than 90 days after the Registrant's CCO Annual Report is furnished to the Commission. The Commission is adding the 90 day time frame to ensure that the audit committee receives the report in a timely manner in furtherance of this provision, but without causing unnecessary disruption to its operation.

The Commission believes that a flexible approach to the timing of furnishing the CCO Annual Report to the audit committee (or equivalent body) addresses commenters' concerns about meeting schedules and the CCO Annual Report submission deadline and better serves the underlying purpose of furnishing the report to the appropriate representatives of senior management at a time that allows for appropriate review by them. The Commission further believes that although the rule as adopted is not identical to the SEC's approach, the two approaches both preserve the goal of ensuring that management with overall responsibility for governance and internal controls is informed of the Registrant's state of compliance in a timely manner while recognizing the inherent differences between CFTC and SEC Registrants. The SEC's CCO rules apply to security-based swap dealers and major security-based swap participants, which are likely to consist of a smaller number of large financial entities or affiliates thereof, most of which are likely required by regulation to have audit committees.[66] By contrast, the CFTC's CCO Rules apply to SDs that range from large financial enterprises to regional banks to commodity dealers to limited purpose affiliates, as well as FCMs. In light of this greater variety of firms subject to the CFTC CCO Rules, the Commission believes a more flexible approach is appropriate.

Similarly, in response to FIA/SIFMA's comment that some Registrants may not have a board of directors or audit committee, the Commission acknowledges that some types of entities that are Registrants are not required to have such bodies, particularly audit committees, and therefor may not have established such a body. The Commission affirms that the rule was not intended to require Registrants to establish either type of body. Accordingly, the final rule text provides that furnishment to the audit committee or equivalent body is required only if such a committee or body has been established. If not, compliance with § 3.3(f)(1) may be met by furnishing the CCO Annual Report to the senior officer or board members only, as applicable.

2. Regulation 3.3(f)(3)—Certification

In response to the Commission's request for comment on additional changes to further harmonize with the

[64] *See* ISDA and FIA/SIFMA comment letters.

[65] A conforming change was made to § 3.3(f)(1)(iii) regarding making and maintaining a record of furnishing the report to the board of directors or the senior officer, and the audit committee.

[66] *See* SEC Adopting Release, 81 FR at 30105 (estimating that approximately 55 entities might register as security-based swap dealers or major security-based swap participants).

SEC regulations that correspond to § 3.3(f), the Commission received four comments regarding the CCO Annual Report certification language in § 3.3(f)(3). Citing the Commission's stated goal of harmonizing § 3.3 with SEC rule 15Fk–1(c)(2)(ii)(D) and concerns regarding potential excess CCO liability, NFA, FIA/SIFMA, and ISDA urged the Commission to include a materiality qualifier. FIA/SIFMA and ISDA recommended that the phrase ''in all material respects'' be added. TD Ameritrade requested that the Commission assess whether the ''under the penalty of law'' standard is the correct standard for CCOs.

The Commission is adopting § 3.3(f) as proposed with one change. The Commission is adding qualifying language, ''in all material respects'' to the requirement to certify that the information contained in the CCO Annual Report is accurate and complete. Consistent with the SEC's approach, this modification provides a reasonable standard and additional clarity regarding the obligations and potential liability of the certifying official. When the Commission adopted the CCO Rules in 2012, it was of the view that limiting the certification language with the qualification ''to the best of his or her knowledge and reasonable belief'' would address concerns of overbroad liability.[67] The rule, the Commission reasoned, ''would not impose liability for compliance matters that are beyond the certifying officer's knowledge and reasonable belief at the time of the certification.'' [68] This language, however, as noted by FIA/SIFMA, ISDA, and TD Ameritrade, may not completely address concerns regarding immaterial inaccuracies or omissions in the CCO Annual Report, notwithstanding the certifying official's good faith efforts to exercise appropriate due diligence.

As noted in the CCO Rules Adopting Release, the Commission appreciates that, for many Registrants, the breadth and complexity of the information contained in the CCO Annual Report inherently requires reliance on many individuals to gather the information for, and prepare, the report.[69] The Commission understands that immaterial inaccuracies or omissions rarely undermine the compliance information contained in the CCO Annual Report. Accordingly, it is reasonable and appropriate to expect that the CCO or chief executive officer would, ''to the best of his or her knowledge and reasonable belief'' certify that ''the information in in the annual report is accurate and complete *in all material respects*'' (emphasis added).[70]

3. Regulation 3.3(f)(6)—Incorporation by Reference and Treatment of Affiliated Registrants

FIA/SIFMA commented that, because affiliated SDs often share a common SD compliance program, much of the information in the CCO Annual Reports is the same. FIA/SIFMA therefore requested that the Commission permit flexibility in how reports from affiliated registrants address common matters.

The Commission believes that, as a procedural matter within the scope of this rulemaking, it is appropriate to provide the requested flexibility. Permitting the consolidation of all relevant information concerning Registrants that control, are controlled by, or are under common control with, other Registrants (''Affiliated Registrants'') into one cohesive report could lead to greater efficiency for those Registrants and improved regulatory oversight. In addition, the request is consistent with provisions in § 3.3(f)(6) permitting individual Registrants and Registrants that are registered in more than one capacity, *e.g.,* as an SD and FCM (''Dual Registrants''), to incorporate by reference sections of a CCO Annual Report furnished to the Commission within the current or immediately preceding reporting period. Accordingly, the Commission is amending § 3.3(f)(6) to permit Affiliated Registrants to incorporate within their CCO Annual Reports information shared across related Registrants.

More broadly, the Commission believes that the annual compliance reporting requirement should not be subject to restrictive formatting requirements that do not serve the purpose of the reports. To the extent that the same information can be presented once for multiple reporting requirements (*e.g.,* for a Dual Registrant or Affiliated Registrants) thereby creating efficiencies without undermining the purpose and utility of the CCO Annual Report, the Commission believes it is appropriate to permit the practice. In view of the foregoing, the Commission is reorganizing § 3.3(f)(6) into three subparagraphs to more clearly set forth the different scenarios in which Affiliated Registrants or Dual Registrants can present the same information used in multiple reports or file one combined report addressing multiple reporting requirements.

New subparagraph (i) incorporates without modification the current language in § 3.3(f)(6). Subparagraph (i) permits an individual Registrant to incorporate by reference sections in a CCO Annual Report that it furnished to the Commission within the current or immediately preceding reporting period.

Like § 3.3(f)(6) as originally adopted, new subparagraph (ii) permits Dual Registrants to cross-reference sections in CCO Annual Reports submitted on behalf of either of its registrations within the current or immediately preceding reporting period. To address ambiguity regarding whether incorporation by reference can be achieved through the annual preparation and submission of a single CCO Annual Report by a Dual Registrant, the Commission is adding clarifying language to § 3.3(f)(6)(ii). Under new § 3.3(f)(6)(ii), a Dual Registrant may submit a single CCO Annual Report covering the annual reporting requirements relevant to each registration category, provided that: (1) The requirements of § 3.3(e) are clearly addressed and identifiable as they apply to the Dual Registrant in each of its registration capacities; (2) to the extent a section of the CCO Annual Report addresses shared compliance programs, resources, or other elements related to compliance, there is a clear description of the commonality and delineation of any differences; and (3) the Registrant complies with the requirements of § 3.3(f)(1) and (3) to certify and furnish the CCO Annual Report for each of its registrations. Regarding this last requirement, the Commission would expect the Dual Registrant to separately certify the CCO Annual Report with respect to each registration category, even if the same CCO or CEO serves as the certifying officer for each registration.

Subparagraph 3.3(f)(6)(iii) permits Affiliated Registrants to use incorporation by reference within their individually required CCO Annual Reports to address matters shared across related registered legal entities. The Commission believes that providing greater flexibility to Affiliated Registrants may provide a more efficient process in achieving the goals of the CCO Annual Report by leveraging current structures and expertise. Regarding the extent of incorporation by reference, consistent with the Commission's view that a flexible approach as to form is warranted, the

[67] CCO Rules Adopting Release, 77 FR at 20163.

[68] *Id.*

[69] *Id.* at 20162–3.

[70] The Commission also notes that adding ''in all material respects'' to § 3.3(f)(3) is consistent with the related duty under § 3.3(f)(4) to promptly amend and recertify the CCO Annual Report if ''*material* errors or omissions'' in the report are identified (emphasis added).

Commission is not prescribing a strict requirement. For example, Affiliated Registrants could submit two separate reports, one of which incorporates by reference listed sections of the other. As another example, Affiliated Registrants could create a master report covering multiple affiliates in a manner similar to that described above for Dual Registrants in which information common to the affiliates is provided once in the report and identified as such and then other sections or appendices provide information specific to each affiliate separately. To the extent Affiliated Registrants choose to combine the contents of their individual CCO Annual Reports, the Commission would require the CCO or CEO for each Registrant to certify the applicable contents of the report consistent with § 3.3(f)(3).

The Commission expects that CCOs of Affiliated Registrants who share common compliance program elements be actively engaged in evaluating, assessing, and advising senior management with regard to those elements within their respective duties to a particular Registrant. Accordingly, how a CCO determines to address such common compliance program elements should not undermine the content or representations made in the CCO Annual Report so long as the references are clear and the information is fully accessible to senior management and the Commission.

E. Other Comments

1. Volcker Rule

The Commission received two comments regarding the compliance requirements of subpart D of part 75 of the Commission's regulations and their relation to § 3.3. Specifically, FIA/SIFMA requested that the Commission revisit the footnote in the part 75 adopting release that includes the compliance requirements under subpart D of part 75 among the regulations covered by § 3.3(d) and (e).[71] Similarly, ISDA requested that the Commission remove the requirement for an applicable FCM or SD to address Volcker compliance program requirements in its CCO Annual Report.

At this time, the Commission is declining to address the Volcker Rule compliance program requirements issue, as it was not considered in the Proposal. However, the Commission notes that the issue that commenters are raising requires serious consideration, and it may address the issue in future guidance or rulemakings.

2. Substituted Compliance

The Commission received three comments regarding the applicability of the Proposal to its outstanding comparability determinations for non-U.S. SDs and MSPs. ISDA, the JBA, and Allen & Overy requested clarification from the Commission that the proposed amendments will not have any impact on the current substituted compliance determinations that pertain to § 3.3. The Commission confirms that any existing substituted compliance determinations with respect to § 3.3 are not affected by this rulemaking.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[72] requires that agencies consider whether a proposed rule will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis of the impact. As noted in the Proposal, the regulations adopted herein would affect FCMs, SDs, and MSPs that are required to be registered with the Commission. The Commission has previously determined that FCMs, SDs, and MSPs are not small entities for purposes of the RFA. The Commission received no comments on the Proposal's RFA discussion. Accordingly, the Chairman, on behalf of the Commission, certifies, pursuant to 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[73] provides that a federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number issued by the Office of Management and Budget (''OMB''). As discussed in the Proposal, the final rules contain a collection of information for which the Commission has previously received a control number from OMB. The title for this collection of information is OMB control number 3038–0080—Annual Report for Chief Compliance Officer of Registrants. As a general matter, the rules, as adopted: (1) Define the term ''senior officer''; (2) clarify the scope of the CCO duties and the content requirements of the CCO Annual Report; (3) add the Registrant's audit committee as a party that must receive the CCO Annual Report; (4) add a materiality qualifier to the CCO Annual Report certification language; and (5) provide procedural instruction for Dual and Affiliated Registrants in the preparation and submission of CCO Annual Reports that address common information across the same or related legal entities. As discussed in the Proposal and herein, the Commission believes that these regulations, as adopted, will not impose any new information collection requirements that require approval of OMB under the PRA. As such, the final rules do not impose any new burden or any new information collection requirements in addition to those that already exist in connection with the preparation and delivery of the CCO Annual Report pursuant to the Commission's regulations.

C. Cost-Benefit Considerations

1. General Considerations

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors relative to the status quo baseline—that is existing § 3.3—and how various regulated entities comply with existing § 3.3 today.

The Commission notes that the consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. While the Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to

[71] *See* Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds, 79 FR 5808, 6020 n. 2521 (Jan. 31, 2014).

[72] 5 U.S.C. 601 *et seq.*

[73] 44 U.S.C. 3501 *et seq.*

the effects of the final rule on all activity subject to the final regulation, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under CEA section 2(i).[74] In particular, the Commission notes that some registrants subject to § 3.3 are located outside of the United States.

The Commission is adopting amendments to the CCO Rules that: (1) Define the term ''senior officer''; (2) clarify the scope of the CCO duties and the content requirements of the CCO Annual Report; (3) add the Registrant's audit committee as a party that must receive the CCO Annual Report; (4) add a materiality qualifier to the CCO Annual Report certification language; and (5) clarify and permit additional procedural methods for Dual and Affiliated Registrants in the preparation and submission of CCO Annual Reports that address common information across the same or related legal entities.

The Proposal requested public comment on the costs and benefits of the proposed regulations, and specifically invited comments on: (1) The extent to which the proposed amendments reduce burdens and costs for Registrants, if at all; (2) whether any of the proposed amendments create any additional burdens or costs for Registrants; (3) whether the nature of, and the extent to which, costs associated with the CCO duties described in § 3.3(d) could change as a result of the adoption of the Proposal, including monetary estimates; (4) what, if any, transition or ongoing costs or savings would result from the adoption of the proposed amendments; (5) whether the proposed amendments to the CCO Annual Report's submission requirements in § 3.3(f)(1) would cause undue burden; and (6) the Commission's preliminary consideration of the costs and benefits associated with the proposed amendments.

Several commenters indirectly addressed the qualitative costs and benefits of the Proposal; however, none included quantitative data or other information in support of a measurable analysis. As such, the Commission is unable to quantify reliably the costs and benefits of this rulemaking. Instead, the Commission gives a qualitative discussion.

As described in the sections above, in support of their comments, several commenters proposed alternative rule text and suggested the Commission provide additional clarification or guidance. In response to certain comments, the Commission adopted alternatives—particularly with respect to the furnishing and certification requirements of the CCO Annual Report—that the Commission believes will further reduce costs and burdens to Registrants while still providing the Commission with the information it needs to monitor the state of compliance by Registrants.

Informed by commenters, the discussion below considers the rule's costs and benefits generally and in light of the five factors specified in section 15(a) of the CEA.[75]

2. Regulation 3.3(d)—Chief Compliance Officer Duties

As discussed above, the Commission amended § 3.3(d) to clarify certain CCO duties. Specifically, the Commission added language to § 3.3(d)(1) to clarify that the CCO's duty with respect to administering policies and procedures is specific to the Registrant's business as an FCM, SD, or MSP, as applicable. As amended, § 3.3(d)(2) incorporates an implied reasonableness standard regarding the duty to resolve conflicts of interest and limits the duty to material conflicts that relate to the Registrant's business as an FCM, SD, or MSP. The Commission amended § 3.3(d)(4) to include the remediation of matters identified ''through any means'' by the CCO, including the specific discovery methods listed in § 3.3(d)(4). Lastly, the Commission amended § 3.3(d)(4) and (5) to remove the requirement in each provision that the CCO consult with the board of directors or senior officer in connection with resolving noncompliance issues and to clarify that the CCO's duty is to take ''reasonable steps to ensure that the registrant'' establishes policies and procedures for the remediation and resolution by management of noncompliance issues.

The Commission did not receive any specific comments regarding whether any costs associated with CCO duties would change as a result of the amendments to § 3.3(d). Better Markets opposed several of the proposed amendments to § 3.3(d) that it viewed as ''likely to weaken the CCO regime.''[76] The Commission considered Better Markets views and does not believe that the final rules will reduce CCO accountability or marginalize the CCO role. Because the amendments to § 3.3(d) provide greater specificity regarding the role of the CCO and the scope of the CCO's duties while further harmonizing with parallel SEC rules, the Commission believes that the final rule does not impose any additional costs to Registrants, market participants, the markets, or the general public.

The Commission expects the greater clarity provided in the amended rule will reduce burdens on CCOs and improve overall compliance by applying a reasonableness standard to CCO responsibilities rather than deterring effective CCO activities due to concerns of uncertain liability. This greater clarity should also encourage a greater willingness of potential CCOs to vie for and take positions with Registrants. As noted by one commenter, clarifying the CCO's role within a Registrant's overall organization fosters accountability for senior business management and supervisors, and reduces obstacles in attracting and retaining highly qualified professionals to serve as CCOs.[77] Additionally, by further harmonizing the CFTC's and SEC's CCO duties, CCOs of dual SEC–CFTC registrants should be able to fulfill their duties more efficiently and cost effectively.

3. Regulation 3.3(e)—Annual Report

In adopting amendments to § 3.3(e), the Commission eliminated the requirement to address ''each'' applicable CFTC regulatory requirement to which a Registrant is subject in the assessment of the WPPs, since the CCO must still conduct an underlying assessment of the effectiveness of the policies and procedures to meet the requirements of the rule. The Commission further removed the requirement to identify each WPP with respect to each applicable requirement, given that the WPPs are already required to be described in § 3.3(e)(1). Lastly, the Commission clarified that the scope of the resources devoted to compliance that need to be described under § 3.3(e)(4) should be limited to a discussion of resources for the specific activities for which the Registrant is registered.

The comments received for these proposed amendments were generally supportive. For example, one commenter stated that ''this Proposal will increase efficiencies by

[74] 7 U.S.C. 2(i).

[75] The final rules add a definition of ''senior officer'' to § 3.1. As stated in the Proposal, the Commission believes this addition in and of itself had no impact for purposes of determining the costs and benefits of the proposal. Nevertheless, the Commission sought public comment on whether the definition of ''senior officer'' has any cost and benefit considerations. The Commission received no comments on any cost and benefit considerations of the proposed definition, and, therefore, the analysis of the costs and benefits of the final rules is restricted to the amendments to § 3.3.

[76] Better Markets comment letter.

[77] *See* FIA/SIFMA comment letter.

streamlining the obligations for market participants that are regulated by both the CFTC and SEC and eliminate unnecessary duplicative policies related to the CCO Annual Report.'' [78] One commenter stated that the removal of the requirement-by-requirement assessment from the rule will ''allow for more effective conversations to occur between its business partners and the Compliance Department, creating for a more holistic assessment of the Firm's compliance.'' [79] Similarly, another commenter highlighted the benefit to overall compliance of focusing the CCO and compliance personnel on WPPs holistically.[80] Only one commenter expressed a concern that the proposed changes equated to a weakening of the process.[81]

As discussed in the Proposal, in implementing § 3.3(e), the Commission received consistent feedback from Registrants that the exercise of documenting their assessment on a requirement-by-requirement basis was creating a significant economic burden in time and resources. Eliminating the requirement-by-requirement assessment is intended to reduce the burdens on Registrants of producing the CCO Annual Report while maintaining its primary purpose. It is the Commission's view, supported by commenters, that by reducing the burden associated with this aspect of the CCO Annual Report, CCO and other compliance resources may be better focused on other compliance functions. As discussed in section II.C.2, the final rule does not remove or lessen the CCO's duties to, among other things, ensure the Registrant is reviewing and assessing the continued soundness of its WPPs. In addition, the amendments harmonize certain CFTC and SEC CCO Annual Report content requirements in an effort to reduce the costs to dual registrants of complying with two regulatory regimes. The Commission believes that the final rule also provides relief for Registrants from resource and time pressures in preparing their CCO Annual Reports.

4. Regulation 3.3(f)—Furnishing the Annual Report and Related Matters

The Commission amended § 3.3(f)(1) to require the CCO to provide the CCO Annual Report to the audit committee or a functionally equivalent body not later than the committee's next scheduled meeting, but in no event more than 90 days following the furnishing of the report to the Commission. The Commission also amended the CCO Annual Report's certification requirement by adding a materiality qualifier to the certification language in § 3.3(f)(3). Lastly, the Commission amended § 3.3(f)(6) to provide procedures for Dual and Affiliated Registrants in the preparation and submission of CCO Annual Reports that address common information across the same or related legal entities.

As discussed above, the Commission received comments from ISDA and FIA/SIFMA asserting that the proposal requiring the senior officer, board of directors, and audit committee to receive the CCO Annual Report would increase operational and regulatory burdens. FIA/SIFMA noted that requiring the boards of directors of SDs that are large, diversified commercial banks to receive the CCO Annual Report would exacerbate current problems associated with the volume of review they must already undertake, further reducing the amount of time they should be allocating to overseeing enterprise risk and strategy. Both commenters believed that the Proposal would add costs, complexities, and possibly, conflicts for Registrants because the deadline to submit the CCO Annual Report to the Commission may not align with board of directors and audit committee meetings, impeding their ability to ensure proper review.

Advocates of adding a materiality qualifier to the CCO Annual Report certification language identified several benefits, including reducing burdens by further harmonizing the Commission's rule with the SEC's parallel rule, providing a measure of clarity to CCOs and potential CCOs regarding their own personal liability, and reducing deterrence of highly qualified people from taking or staying in the CCO role.[82] In support of its request for greater flexibility in the preparation of CCO Annual Reports by Affiliated Registrants, FIA/SIFMA noted the benefits of streamlining the overall process.

In response to concerns regarding the proposed CCO Annual Report submission requirements, the Commission has modified § 3.3(f)(1) to accommodate the practicality of audit committee and board meeting schedules. Because the final rule maintains the requirement that either the senior officer or the board of directors receive the CCO Annual Report prior to its submission to the Commission, Registrants should not have to change existing internal document submission processes for board meetings to comply. As adopted, the final rule adds the audit committee (or equivalent body) as a recipient of the report, but allows for the report to be furnished to the audit committee not later than the next scheduled meeting, but in no event more than 90 days after submission of the report to the Commission is required. Since the rule does not set a timeline for the review of the CCO Annual Report by any of its internal recipients—leaving such matters to the discretion of each Registrant, the Commission believes that any additional costs arising out of the requirement to submit the report to the audit committee should be minimal. The Commission does not believe the final amendments to § 3.3(f)(1), (3) and (6) impose any new costs or burdens since they do not require Registrants to affirmatively undertake new duties or requirements.

As described above and in the Proposal, the Commission believes that the amendments to § 3.3(f) will ensure that the CCO's findings and recommendations will be distributed to the groups within each Registrant with responsibility for governance and internal controls. Further, the Commission believes the amendments provide greater flexibility and opportunity for Dual and Affiliated Registrants to streamline their CCO Annual Report preparation processes, which may result in a less costly CCO Annual Report.

D. Section 15(a) Factors

As noted above, section 15(a) of the CEA specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

1. Protection of Market Participants and the Public

The final rules will continue to protect market participants and the public because they do not fundamentally alter the CCO duties or the annual compliance reporting requirements of § 3.3. While the amendment removing the requirement-by-requirement reporting may reduce the extent of reporting detail, the Commission believes that change will allow the CCO to focus more directly on identifying and describing in the CCO Annual Report material compliance

[78] *See* NGSA comment letter.

[79] *See* TD Ameritrade comment letter. *See also* NFA comment letter.

[80] *See* FIA/SIFMA comment letter.

[81] *See* Better Markets comment letter.

[82] *See* FIA/SIFMA, ISDA, and NFA comment letters.

issues and other related matters deserving of greater attention. Accordingly, the Commission believes that the reduction in content requirements will not affect the protection of market participants and the public.

2. Efficiency, Competitiveness, and Financial Integrity of Markets

The Commission believes that the amended CCO Rules will not negatively impact market efficiency, competitiveness, or integrity because each CCO Annual Report addresses internal compliance programs of each Registrant and are not publicly available. The amendments affecting CCO duties only clarify those duties and do not affect the performance of derivatives markets.

3. Price Discovery

The Commission did not identify a specific effect on price discovery as a result of the Proposal because the Proposal did not address any pricing issues. The Commission did not receive any comments on this issue. Thus, the Commission continues to believe that this rulemaking will not have an impact on price discovery.

4. Sound Risk Management Practices

The Commission believes that the final amendments to the CCO duties and CCO Annual Report requirements will not have a meaningful effect on Registrants' risk management practices. The final rules do not directly impact a Registrant's risk management practices because they clarify the scope of the CCO's duties and CCO Annual Report contents, and do not require changes to a Registrant's risk management program.[83] Furthermore, the final amendments to the CCO Annual Report content requirements do not affect the Registrant's obligation to address material noncompliance issues relating to its risk management program in the CCO Annual Report. The Commission believes that including the audit committee and either the board of directors or the senior officer as recipients of the CCO Annual Report may benefit Registrants' overall risk management practices by ensuring that those with overall responsibility for governance and internal controls are informed of the report contents. Finally, the Commission does not believe that the addition of the materiality qualifier to the CCO Annual Report certification language, or the additional procedural mechanisms for addressing common matter across Dual and Affiliated Registrants impacts Registrants' risk management practices, as they do not impact the CCO Annual Report's content and underlying assessment.

5. Other Public Interest Considerations

The Commission has not identified any other public interest considerations for this rulemaking.

E. Antitrust Considerations

Section 15(b) of the Act requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the Act, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the Act.[84] The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition.

The Commission has reflected on the final rule to determine whether it is anticompetitive and has identified no anticompetitive effects. Because the Commission has determined that the final rulemaking has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act.

List of Subjects in 17 CFR Part 3

Administrative practice and procedure, Chief compliance officer, Commodity futures, Futures commission merchants, Major swap participants, Registration, Swap dealers, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as follows:

PART 3—REGISTRATION

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 6a, 6b, 6b–1, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 6s, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, and 23.

■ 2. In § 3.1, add paragraph (j) to read as follows:

§ 3.1 Definitions.

* * * * *

(j) *Senior officer.* Senior officer means the chief executive officer or other equivalent officer of a registrant.

■ 3. In § 3.3, revise paragraphs (d), (e), and (f) to read as follows:

§ 3.3 Chief compliance officer.

* * * * *

(d) *Chief compliance officer duties.* The chief compliance officer's duties shall include, but are not limited to:

(1) Administering each of the registrant's policies and procedures relating to its business as a futures commission merchant, swap dealer, or major swap participant that are required to be established pursuant to the Act and Commission regulations;

(2) In consultation with the board of directors or the senior officer, taking reasonable steps to resolve material conflicts of interest relating to the registrant's business as a futures commission merchant, swap dealer, or major swap participant that may arise;

(3) Taking reasonable steps to ensure compliance with the Act and Commission regulations relating to the registrant's business as a futures commission merchant, swap dealer or major swap participant;

(4) Taking reasonable steps to ensure the registrant establishes, maintains, and reviews written policies and procedures reasonably designed to remediate noncompliance issues identified by the chief compliance officer through any means, including any compliance office review, look-back, internal or external audit finding, self-reporting to the Commission and other appropriate authorities, or complaint that can be validated;

(5) Taking reasonable steps to ensure the registrant establishes written procedures reasonably designed for the handling, management response, remediation, retesting, and resolution of noncompliance issues; and

(6) Preparing and signing the annual report required under paragraphs (e) and (f) of this section.

(e) *Annual report.* The chief compliance officer annually shall prepare a written report that covers the most recently completed fiscal year of the futures commission merchant, swap dealer, or major swap participant. The annual report shall, at a minimum, contain a description of:

(1) The written policies and procedures of the futures commission merchant, swap dealer, or major swap participant described in paragraph (d) of this section, including the code of ethics and conflicts of interest policies;

(2) The futures commission merchant's, swap dealer's, or major swap participant's assessment of the

[83] *See, e.g.,* 17 CFR 23.600.

[84] 7 U.S.C. 19(b).

effectiveness of its policies and procedures relating to its business as a futures commission merchant, swap dealer or major swap participant;

(3) Areas for improvement, and recommended potential or prospective changes or improvements to its compliance program and resources devoted to compliance;

(4) The financial, managerial, operational, and staffing resources set aside for compliance with respect to the Act and Commission regulations relating to its business as a futures commission merchant, swap dealer or major swap participant, including any material deficiencies in such resources;

(5) Any material noncompliance issues identified and the corresponding action taken; and

(6) Any material changes to compliance policies and procedures during the coverage period for the report.

(f) *Furnishing the annual report and related matters*—(1) *Furnishing the annual report.* (i) Prior to furnishing the annual report to the Commission, the chief compliance officer shall provide the annual report to the board of directors or senior officer of the futures commission merchant, swap dealer, or major swap participant for its review.

(ii) If the futures commission merchant, swap dealer, or major swap participant has established an audit committee (or an equivalent body), then the chief compliance officer shall furnish the annual report to the audit committee (or equivalent body) not later than its next scheduled meeting after the annual report is furnished to the Commission, but in no event more than 90 days after the applicable date specified in paragraph (f)(2) of this section for furnishing the annual report to the Commission.

(iii) A written record of transmittal of the annual report to the board of directors or the senior officer, and audit committee, if applicable, shall be made and maintained in accordance with § 1.31 of this chapter.

(2) *Furnishing the annual report to the Commission.* (i) Except as provided in paragraph (f)(2)(ii) of this section, the annual report shall be furnished electronically to the Commission not more than 90 days after the end of the fiscal year of the futures commission merchant, swap dealer, or major swap participant.

(ii) The annual report of a swap dealer or major swap participant that is eligible to comply with a substituted compliance regime for paragraph (e) of this section pursuant to a comparability determination of the Commission may be furnished to the Commission electronically up to 15 days after the date on which the comparable annual report must be completed under the requirements of the applicable substituted compliance regime. If the substituted compliance regime does not specify a date by which the comparable annual report must be completed, then the annual report shall be furnished to the Commission by the date specified in paragraph (f)(2)(i) of this section.

(3) *Certification.* The report shall include a certification by the chief compliance officer or chief executive officer of the registrant that, to the best of his or her knowledge and reasonable belief, and under penalty of law, the information contained in the annual report is accurate and complete in all material respects.

(4) *Amending the annual report.* The futures commission merchant, swap dealer, or major swap participant shall promptly furnish an amended annual report if material errors or omissions in the report are identified. An amendment must contain the certification required under paragraph (f)(3) of this section.

(5) *Extensions.* A futures commission merchant, swap dealer, or major swap participant may request from the Commission an extension of time to furnish its annual report, provided the registrant's failure to timely furnish the report could not be eliminated by the registrant without unreasonable effort or expense. Extensions of the deadline will be granted at the discretion of the Commission.

(6) *Incorporation by reference and related registrants*—(i) *Prior reports.* A futures commission merchant, swap dealer, or major swap participant may incorporate by reference sections of an annual report that has been furnished within the current or immediately preceding reporting period to the Commission.

(ii) *Dual registrants.* If a futures commission merchant, swap dealer, or major swap participant is registered in more than one capacity with the Commission, an annual report submitted as one registrant may incorporate by reference sections in the annual report furnished within the current or immediately preceding reporting period as the other registrant. A dual registrant may submit one annual report that addresses the requirements set forth in paragraphs (e), (f)(1) and (f)(3) of this section with respect to each registration capacity.

(iii) *Affiliated registrants.* If a futures commission merchant, swap dealer, or major swap participant controls, is controlled by, or is under common control with, one or more other futures commission merchants, swap dealers, or major swap participants, and each of the affiliated registrants must submit an annual report, an affiliated registrant may incorporate by reference in its annual report sections from an annual report prepared by any of its affiliated registrants furnished within the current or immediately preceding reporting period. Affiliated registrants may submit one annual report that addresses the requirements set forth in paragraphs (e), (f)(1) and (f)(3) of this section with respect to each affiliated registrant.

* * * * *

■ 4. Add appendix C to part 3 to read as follows:

Appendix C to Part 3—Guidance on the Application of § 3.3(e), Chief Compliance Officer Annual Report Form and Content

A. Description of the Registrant's WPPs (§ 3.3(e)(1))

In acknowledgment of the large number of WPPs that a Registrant implements to comply with CFTC regulations, the Commission understands that for purposes of the CCO Annual Report, specific WPP descriptions may be appropriately brief while still identifying the basic purpose of the policy or procedure and how the policy or procedure operates to achieve that purpose. The CCO Annual Report should include a summary overview that describes the general forms and types of WPPs the Registrant has, such as a compliance manual specific to the Registrant, global corporate manuals or policies, and/or business-unit-specific WPPs that support the applicable regulatory requirements. This summary overview would provide a narrative of the Registrant's system or program of WPPs, how they work as a whole, and how the Registrant generally puts the WPPs into practice as part of its compliance activities. With respect to the COI policy, it is the Commission's view that the CCO should describe the COI policy specific to the Registrant, addressing the specific requirements of § 1.71 or § 23.605 of this chapter, as applicable.

B. Assessment of the Effectiveness of the Policies and Procedures (§ 3.3(e)(2))

The Commission expects a CCO Annual Report to contain a comprehensive discussion of: the assessment process; and the results of the effectiveness assessment. The regulation does not dictate the form or manner for the effectiveness assessment. Rather, the Commission would expect each Registrant to follow a process and present the resulting assessment in a form and manner that is appropriate for the size and complexity of the Registrant's applicable business activities and structure. While § 3.3(e)(2) no longer has a ''requirement-by-requirement'' standard, the CCO Annual Report should address all of the general areas of regulation applicable to the Registrant.

C. Areas for Improvement and Recommended Changes (§ 3.3(e)(3))

1. Section 3.3(e)(3) requires two components in the CCO Annual Report: an

identification and discussion of each area that needs improvement; and a discussion of what changes are recommended to address each area needing improvement. In addressing these two elements, the CCO Annual Report should include, as applicable: A discussion of why the particular area needs improvement; a discussion of the proposed improvements and the time frame for their implementation; and a cross-reference to the regulation that a recommended change would address.

2. In general, identifying areas in need of improvement and recommending steps to effect those improvements should be a core function of compliance. Accordingly, a CCO Annual Report that makes no recommendations for changes or improvements to the compliance program may raise concerns about the adequacy of the compliance program review intended by the CCO Annual Report process. Moreover, there should be continuity from one reporting cycle to the next, such that where a previous CCO Annual Report discussed future changes or improvements that were being considered or planned, subsequent CCO Annual Reports should discuss the outcomes of the changes that were implemented during the most recent scope period, any monitoring or testing of those changes, whether any compliance issues arose from the changes and, if there were any issues, how those issues were handled. While this section may address improvements to the compliance program that have already been completed, the Commission believes that this section primarily should discuss recommended improvements in process and/or future plans to improve the Registrant's compliance program or resources devoted to compliance.

D. Resources Set Aside for Compliance (§ 3.3(e)(4))

1. The resources description required by § 3.3(e)(4) should be appropriate for assisting the Registrant's senior management and the CFTC in assessing whether sufficient resources are dedicated to compliance. Accordingly, the description should include the following types of information: the budget allocated to the compliance department of the Registrant for compliance with the CEA and Commission regulations; full-time compliance staffing levels for such compliance activities; partially allocated staff counts (if applicable), with information on how much of such employees' time is devoted to the Registrant's compliance matters that are subject to CFTC oversight; an explanation of managerial resources (the explanation should clearly identify the division between staffing resources and management resources devoted to compliance); general infrastructure information (*e.g.,* computers, compliance-oriented software, technology infrastructure, etc.); and if applicable, a description of the use of third party vendors or outsourcing for compliance activities. In most cases, to effectively inform the board of directors or senior officer and the Commission, the description should include quantifiable information for the financial, managerial, operational, and staffing resources allocated to compliance with the CEA and Commission regulations.

2. The Commission understands that a discussion of specific compliance budget allocations may not be as straightforward as described above depending on the size and complexity of the Registrant's compliance program and the extent to which the Registrant's compliance resources may be shared for other non-CFTC regulated business activities. The purpose of the CCO Annual Report requirement is to convey to senior management and the CFTC a clear understanding of the resources the Registrant has set aside for compliance with the CEA and Commission regulations. While some of the compliance resources used in a Registrant's CFTC compliance-related program may be used for compliance activities in other parts of a larger corporate enterprise, this sharing of resources does not negate the Registrant's obligation to discuss how the Registrant's compliance program is being resourced. For those instances where compliance resources are shared, it is recognized that the description of the shared resources may reasonably be more general in nature, providing approximations and estimates based on expected needs. However, the Commission expects that the CCO Annual Report will still address shared resources in as much detail as is necessary to convey the information needed to assess the overall compliance activities of the Registrant.

3. Section 3.3(e)(4) also requires that the CCO Annual Report include a discussion of any material deficiencies in compliance resources. If there have been reductions in the compliance program of the Registrant since the prior reporting period, for example, if there has been a reduction in compliance staff, a significant compliance budget decrease, or the Registrant initiated significant new business activities without a corresponding increase in compliance resources, the CCO Annual Report should include an explanation of why the compliance resources are not deficient in light of the changes. If there are no material deficiencies in the resources devoted to compliance, the Commission recommends that the CCO Annual Report contain an express statement to that effect so that the recipients of the report can see that the requirement was assessed.

E. Material Noncompliance Issues (§ 3.3(e)(5))

The CCO Annual Report should include an explanation of the standard the Registrant used to determine a non-compliance event's materiality. In addition, this section of the CCO Annual Report should contain a description of each material non-compliance issue identified either through self-assessment procedures conducted within the Registrant, or noted by any external entities which conducted a review of the Registrant (such as a designated self-regulatory organization). The description should also include the corresponding actions taken, described in reasonable detail, as well as specific references to the Commission regulation or regulations that are implicated by the non-compliance event. Specifically, the Commission recommends that the CCO Annual Report include a discussion of the Registrant's deliberations on a course of remediation, how the implementation of the remediation is being or was executed, any follow-up testing of the remediation, and any noteworthy results from such testing. Additionally, the Commission recommends that CCOs consider including an overview of how the CCO or compliance department handles and tracks non-compliance events in general.

F. Material Changes to WPPs (§ 3.3(e)(6))

When describing any material changes to the WPPs, a description of the standard of materiality used should be provided. This description will provide meaningful context for any reported changes to the WPPs.

Issued in Washington, DC, on August 21, 2018, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Chief Compliance Officer Duties and Annual Report Requirements for Futures Commission Merchants, Swap Dealers, and Major Swap Participants; Amendments—Commission Voting Summary and Chairman's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz and Behnam voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman J. Christopher Giancarlo

As part of the CFTC's Project KISS efforts, this final rule will streamline and clarify a Chief Compliance Officer's (CCO) obligations, as well as harmonize certain provisions with the Securities and Exchange Commission's (SEC) rules. Clarifying the role and responsibilities of the CCO should enable greater accountability and improve overall compliance, as well as reduce burdens on CCOs and uncertainty for registrants. The rule continues to impose a duty on CCOs to resolve matters but within the practical limits of their position at the CFTC-registered entity. The rule also continues to impose a duty for the CCO to undertake an annual review but reduces the burdens associated with the review, which will allow the CCO to devote more time and resources to compliance activities at the registrant. In addition, further harmonizing definitions and CCO duties of dual CFTC–SEC registrants should improve efficiency and further reduce the burdens on CCOs.

I would like to thank CFTC staff for their efforts. I would also like to thank Commissioners Quintenz and Behnam for their support.

[FR Doc. 2018–18432 Filed 8–24–18; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 508

[Docket ID: USA–2017–HQ–0010]

RIN 0702–AA83

Competition With Civilian Bands

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes the Department of the Army's regulation concerning participation of Army bands on and off post. This part has been superseded by requirements which direct appropriate participation of U.S. military bands on and off post. This part conveys internal Army policy and procedures and is unnecessary. Therefore, this part should be removed from the CFR.

DATES: This rule is effective on August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Jennifer Williams at 757–462–1060.

SUPPLEMENTARY INFORMATION: Public comment on the removal of 32 CFR part 508 is not required because the regulation involves a matter relating to agency management and personnel, and because the regulation is a general statement of policy.

DoD internal guidance will continue to be published in Army Regulation 220–90, ''Army Music,'' available at *https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx.*

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

List of Subjects in 32 CFR Part 508

Music, Utilization of Army bands.

PART 508—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 508 is removed.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–18480 Filed 8–24–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0742]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile Markers 751.2 to 751.8, Alma, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Upper Mississippi River. The safety zone is necessary to protect persons, vessels, and the marine environment from potential hazards created by a demolition project taking place on the bank of the Upper Mississippi River near Alma, WI. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from September 28, 2018, through October 15, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0742 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
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)(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 it is impracticable. It is impracticable because we must establish this safety zone by September 28, 2018, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The NPRM process would delay the establishment of the safety zone and compromise public safety.

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 Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the equipment to be used in the demolition of a 700 foot tall chimney at the Dairyland Power Cooperative Station will be a safety concern for anyone on a six-tenths of a mile stretch of the Upper Mississippi River at the time the chimney is toppled. This rule is needed to protect persons, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the demolition.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from September 28, 2018 through October 15, 2018. The safety zone will cover all navigable waters of the Upper Mississippi River between mile markers 751.2 and 751.8, adjacent to the eastern river bank, where the demolition of a 700-foot chimney will take place. The Coast Guard was informed that the demolition itself would take approximately 30 minutes on one day and that all debris should be contained and is not expected to enter the waterway. The period of enforcement of this safety zone will be two hours before, thirty minutes during, and thirty minutes after the demolition. The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), and/or Marine Safety Information Bulletins (MSIBs), or through other means of public notice, as appropriate, at least 3 hours in advance of the enforcement period. The duration of the zone is intended to protect persons, vessels, and the marine

environment on these navigable waters during the chimney demolition.

No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to Sector Upper Mississippi River, U.S. Coast Guard. A designated representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by telephone at 314–269–2332. All persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and dates for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Safety Information Marine Broadcasts (SIMBs), as appropriate.

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 13563 (''Improving Regulation and Regulatory Review'') and 12866 (''Regulatory Planning and 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).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts less than a one-mile stretch of the Upper Mississippi River for approximately three hours on one day. Moreover, the Coast Guard will issue a Safety Marine Information Broadcast (SMIB) via VHF–FM marine channel 16 about the zone and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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 temporary 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 Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zone that impacts a less than a one-mile stretch of the Upper Mississippi River for approximately three hours on one day. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0724 to read as follows:

§ 165. T08–0742 Safety Zone; Mile Markers 751.2 to 751.8, Upper Mississippi River, Alma, WI.

(a) *Location.* The following area is a safety zone: All navigable waters of the Mississippi River between mile marker (MM) 751.2 and MM 751.8, Alma, WI.

(b) *Effective period.* This section will be enforced from September 28, 2018 through October 15, 2018.

(c) *Enforcement period.* This section will be enforced for three hours on one day, two hours prior to, thirty minutes during, and thirty minutes after the completion of demolition at the Dairyland Power Cooperative Station in Alma, WI. The Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative will inform the public of the enforcement through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs) and/or Safety Marine Information Broadcasts (SMIBs) or other means of public notice at least three hours in advance of the enforcement of this safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, persons and vessels are prohibited from entering the safety zone unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River. A designated representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM channel 16 or by telephone at 314–269–2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs) and/or Safety Marine Information Broadcasts (SMIBs) or other means of public notice of the enforcement period for the temporary safety zone as well as any changes in the dates and times of enforcement.

Dated: August 21, 2018.

Stormer, Scott A.,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2018–18453 Filed 8–24–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2017–0560; FRL–9982–77]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 10 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 10 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: This rule is effective on October 26, 2018. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on September 10, 2018.

Written adverse comments on one or more of these SNURs must be received on or before September 26, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse commentsts, on one or more of these SNURs before September 26, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0560, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after September 26, 2018 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the Agency taking?

1. *Direct Final Rule.* EPA is promulgating these SNURs using direct final rule procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices obligates EPA to assess risks that may be associated with the significant new uses under the conditions of use and, if appropriate, to regulate the proposed uses before they occur.

2. Proposed Rule. In addition to this direct final rule, elsewhere in this issue of the **Federal Register**, EPA is issuing a notice of proposed rulemaking for this rule. If EPA receives no adverse comment, the Agency will not take further action on the proposed rule and the direct final rule will become effective as provided in this action. If EPA receives adverse comment on one or more of SNURs in this action by September 11, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**), the Agency will publish in the **Federal Register** a timely withdrawal of the specific SNURs that the adverse comments pertain to, informing the public that the actions will not take effect. EPA would then address all adverse public comments in a response to comments document in a subsequent final rule, based on the proposed rule.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA furthermore prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If

EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 10 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 10 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) Order.
- Information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.

This information may include testing required in a TSCA section 5(e) Order to be conducted by the PMN submitter, as well as testing not required to be conducted but which would also help characterize the potential health and/or environmental effects of the PMN substance. Any recommendation for information identified by EPA was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. See Unit VIII. for more information.

- CFR citation assigned in the regulatory text section of this rule.

The regulatory text sections of these rules specify the activities designated as significant new uses. Certain new uses, including exceedance of production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These rules include 10 PMN substances that are subject to Orders under TSCA section 5(e)(1)(A). Each Order is based on one or more of the findings in TSCA section 5(a)(3)(B): There is insufficient information to permit a reasoned evaluation; in the absence of sufficient information to permit a reasoned evaluation, the activities associated with the PMN substances may present unreasonable risk to human health or the environment; the substance is or will be produced in substantial quantities, and enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant (substantial) human exposure to the substance. Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Where EPA determines that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) Order requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) Orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs that are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) Order for the same chemical substance.

PMN Number: P–13–307

Chemical name: Substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic)amino]sulfonyl]carbocyclic]amino]carbonyl]-4-methyl-(generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 31, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a component of manufactured consumer article—contained use. Based on SAR analysis of test data on analogous substances, EPA has identified concerns for systemic toxicity on the spleen, liver and thymus, blood effects, developmental toxicity and immunotoxicity. Based on SAR analysis for amides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 parts per billion (ppb) in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to

health and the environment. To protect against these risks, the Order requires:

1. Submission of certain toxicity testing prior to exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment, including impervious gloves, to prevent dermal exposure;

3. Use of NIOSH certified respirators with Assigned Protection Factor (APF) of 10 to prevent inhalation exposures or compliance with a NCEL of 4 mg/m^3 as an 8-hour time-weighted average to prevent inhalation exposure;

4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the Safety Data Sheet (SDS);

5. Refraining from manufacturing the PMN substance in the United States (*i.e.,* import only);

6. Use of the PMN substance only for the confidential use specified in the Order; and

7. No release of the PMN substances resulting in surface water concentrations that exceed 30 ppb.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the human health toxicity of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed a certain production volume limit without performing specific organ toxicity testing.

CFR citation: 40 CFR 721.11116.

PMN Numbers: P–16–316 and P–16–317

Chemical name: Aliphatic polyester (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: July 27, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as drilling chemicals. Based on SAR analysis of test data on analogous substances, EPA has identified concerns for kidney toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of the PMN substances only for the confidential use specified in the Order; and

2. Manufacture (which under TSCA includes import) the PMN substances with a average molecular weight no lower than 22,000 for P–16–0316 and no lower than 14,000 for P–16–0317 and species with a molecular weight less than 500 present at a maximum of 2% by weight.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate, environmental toxicity and human health toxicity of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of water solubility and log Kow testing, acute and chronic aquatic toxicity testing and developmental toxicity testing may be potentially useful in characterizing the health and environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citations: 40 CFR 721.11117.

PMN Number: P–16–342

Chemical name: Modified acrylic polymer (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: August 7, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a dispersant for deflocculation of pigments in industrial paints and coatings. Based on SAR analysis of test data on analogous substances, EPA has identified concerns for lung toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Refrain from manufacturing the PMN substance in the United States (*i.e.,* import only);

2. Use of the PMN substance only as a dispersant for deflocculation of pigments in industrial paints and coatings;

3. Use the PMN substance in the paint/coating formulation at a concentration not greater than 1 percent by weight or volume;

4. No modification of the processing method or use activities of the PMN substance that would allow inhalation exposure to the PMN substance by vapor, dust, mist or aerosols at concentrations greater than 1 percent by weight or volume; and

5. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the (SDS).

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the human health toxicity of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary toxicity testing may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11118.

PMN Numbers: P–16–406 and P–16–407

Chemical names: Functionalized polyimide (generic).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: July 27, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as coating for solid substrates. Based on SAR analysis of test data on analogous substances, EPA has identified concerns for lung toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i), based on a finding that the information available to the Agency is insufficient to permit a reasoned evaluation of the human health effects. To protect against any potential risks the Order requires:

1. Use of the PMN substances only as a coating for solid substrates;

2. No use of the PMN substances involving application methods that

generate inhalation exposures to the PMN substance by vapor, dust, mist or aerosols; and

3. No modification of manufacturing process of the PMN substances such that workers would be exposed through inhalation.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the human health toxicity of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary toxicity testing may be potentially useful in characterizing the health effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11119.

PMN Number: P–16–413

Chemical name: Siloxanes and Silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl.

CAS number: 1610862–54–8.

Effective date of TSCA section 5(e) Order: July 13, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the PMN substance is as an anti-fingerprint material for a metal coating application. Based on SAR analysis of test data on analogous substances, EPA has identified concerns for lung toxicity based on waterproofing of the lung if inhaled. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Submission of certain fate testing on the PMN substance prior to exceeding the production volume limits specified in the Order;

2. No processing or use of the PMN substance in a manner that results in inhalation exposure due to spray, mist or aerosol;

3. Refraining from manufacturing the PMN substance in the United States (*i.e.,* import only); and

4. No release of the PMN substance into the waters of the United States.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate and human health toxicity of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the confidential production limit without performing a UV/visible absorption test, a direct and indirect photolysis test, aerobic and anaerobic transformation in soil test and aerobic and anaerobic transformation in sediment test. In addition, EPA has determined that the results of pulmonary toxicity testing may be potentially useful in characterizing the human health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11120.

PMN Number: P–16–455

Chemical name: Sodium Tungsten Oxide.

CAS number: 11120–01–7.

Effective date of TSCA section 5(e) Order: November 2, 2016.

Basis for TSCA section 5(e) Order: The PMN states that the use of the PMN substance will be as a component of infrared absorption material. Based on test data on an analog, EPA has identified concerns for lung toxicity and carcinogenicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. EPA assessed risks based on the disposal processes and engineering controls described in the PMN. To protect against these risks, the Order requires:

1. Submission of certain toxicity testing on the PMN substance prior to exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment, including impervious gloves, to prevent dermal exposure;

3. Use of NIOSH certified respirators with a minimum (APF) of 1000 to prevent inhalation exposure or compliance with a NCEL of 0.3 mg/m^3 as an 8-hour time-weighted average to prevent inhalation exposure;

4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the (SDS);

5. Use of the PMN substance only as a component of infrared absorption material;

6. No use of the PMN substance involving application methods that generate dust, mist or aerosol unless such application method occurs within an enclosed process;

7. No release of the PMN substance into the waters of the United States; and

8. The PMN substance and any waste streams from manufacture, processing, and use containing the PMN substance must be disposed of only by incineration or landfill.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the human health and environmental toxicity of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the confidential production limit without performing specific pulmonary toxicity and carcinogenicity testing. In addition, EPA has determined that the results of certain chronic aquatic toxicity testing may be potentially useful in characterizing the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11121.

PMN Number: P–16–503

Chemical name: Fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: January 11, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the non-confidential use of the PMN substance will be as a site-limited polymer intermediate for production of a deck stain coating resin additive. Based on physical-chemical properties of the PMN substance, EPA identified low

concerns for human health and environmental effects. However if the PMN substance were manufactured differently, EPA identified concerns for developmental toxicity and aquatic toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Manufacture (including import) the PMN substance with a number average molecular weight no lower than 1500, and no more than 24% by weight of acid monomer in the polymer; and
2. Use of the PMN substance only as an intermediate

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate, human health and environmental toxicity of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of physical-chemical property testing, chronic aquatic toxicity testing, and developmental toxicity testing may be potentially useful in characterizing the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11122.

PMN Number: P–16–570

Chemical name: Carboxylic acids, C6–18 and C8–15-di, polymers with diethylene glycol, glycerol, oleic acid, phthalic acid and sorbitol.

CAS number: 1877295–51–6.

Effective date of TSCA section 5(e) Order: August 5, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the PMN substance will be as an aromatic polyester polyol for manufacturing rigid foam. Based on test data on an analog, EPA has identified concerns for reproductive and developmental toxicity. Based on SAR analysis for esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 610 parts per billion (ppb). The Order was issued under TSCA sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i), based on a determination that ''the information available is insufficient to permit a reasoned evaluation of the human health effects and the PMN substance, ''stating that ''because of the absence of sufficient information to permit EPA to make such a determination and in light of the potential risk of human health effects posed by the uncontrolled manufacture (which includes import), processing, distribution in commerce, use and disposal of the PMN substance. EPA has concluded that uncontrolled manufacture, processing, distribution in commerce use, and disposal of the PMN substance may present an unreasonable risk of injury to human health.'' To protect against these risks, the Order requires:

1. Submission of certain toxicity testing prior to exceeding the confidential production volume limit specified in the Order;
2. Use of personal protective equipment to prevent dermal exposures;
3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the (SDS);
4. Manufacture (including import) the PMN substance with residual phthalate not greater than 0.1% by weight;
5. Use of the PMN substance only as an aromatic polyester polyol for rigid foam;
6. No modification of manufacturing, processing or use activities of the PMN substance to result in the generation of a vapor, mist or aerosol; and
7. No release of the PMN substance into the waters of the United States.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and human health toxicity of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the confidential production limit without performing specific reproductive/developmental toxicity testing. In addition, EPA has determined that the results of acute aquatic toxicity testing may be potentially useful in characterizing the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.11123.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for all 10 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters.

The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.
- EPA will identify as significant new uses any manufacturing, processing, distribution in commerce, use, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the

TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule. The effective date of this rule is October 26, 2018 without further notice, unless EPA receives written adverse comments before September 26, 2018.

If EPA receives written adverse comments on one or more of these SNURs before September 26, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse comments must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) Orders have been issued for all of the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) Orders from undertaking activities which will be designated as significant new uses. The identities of 7 of the 10 chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11) for a chemical substance covered by this action. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates August 27, 2018 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the direct final rule.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date will have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons will have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: development of test data is required where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)).

In the absence of a TSCA section 4 test rule covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists required or recommended testing for all of the listed SNURs. Descriptions of this information are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In certain of the TSCA section 5(e) Orders for the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) Orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) Orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) Orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the Orders was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

The potentially useful information identified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA

early enough so that they will be able to generate useful information.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at § 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2017–0560.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this action.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

• Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 20, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.11116	2070–0012
721.11117	2070–0012
721.11118	2070–0012
721.11119	2070–0012
721.11120	2070–0012
721.11121	2070–0012
721.11122	2070–0012
721.11123	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.11116 to subpart E to read as follows:

§ 721.11116 Substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic)amino]sulfonyl] carbocyclic]amino]carbonyl]-4-methyl- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic)amino]sulfonyl] carbocyclic]amino]carbonyl]-4-methyl- (PMN P–13–307) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4) (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to

prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 10 or maintain workplace airborne concentrations), (a)(6)(particulate), (b)(concentrations set at 1.0%) and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 4 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(iv), (viii), (ix), (g)(2)(ii), (iii), (use respiratory protection or maintain workplace airborne concentrations below an 8-hour time-weighted average of 4 mg/m^3), (g)(2)(v), (g)(4)(i), (ii) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k) and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 30 ppb.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (i) and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 5. Add § 721.11117 to subpart E to read as follows:

§ 721.11117 Aliphatic polyester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as aliphatic polyester (PMNs P–16–316 and P–16–317) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the PMN substances with an average molecular weight lower than 22,000 daltons for P16–316 and lower than 14,000 daltons for P–16–317 and containing more than 2% by weight of molecular weight species less than 500 daltons.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 6. Add § 721.11118 to subpart E to read as follows:

§ 721.11118 Modified acrylic polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified acrylic polymer (PMN P–16–342) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(ii), (g)(2)(ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use for any use other than as a dispersant for deflocculation of pigments in industrial paints and coatings, any use in the paint/coating formulation at concentration greater than 1 percent by weight or volume, and any use of the substance that would allow inhalation exposure to the substance by vapor, dust, mist or aerosols at concentrations greater than 1 percent by weight or volume.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.11119 to subpart E to read as follows:

§ 721.11119 Functionalized polyimide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified as functionalized polyimide (PMN P–16–406 and P–16–407) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1) and (2). It is a significant new use to use the substances other than as a coating for solid substrates. Any manufacturing process that results in inhalation exposure to the substances is a significant new use.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. Add § 721.11120 to subpart E to read as follows:

§ 721.11120 Siloxanes and Silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as siloxanes and silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl (CAS: 1610862–54–8) (PMN P–16–413) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements are described in § 721.80(f) and (p)(40,000 kilograms and 151,300 kilograms). It is a significant new use to process or use the PMN substance in a manner that results in inhalation exposure to spray, mist or aerosol.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.11121 to subpart E to read as follows:

§ 721.11121 Sodium tungsten oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as sodium tungsten oxide (CAS No. 11120–01–7) (PMN P–16–455) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4)(when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 1000, (a)(6)(particulate), (b)(concentrations set at 0.1%) and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 0.3 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 0.1%), (f), (g)(1)(lung effects), (g)(1)(vii), (g)(2)(ii), (iii), (g)(2)(use respiratory protection or maintain workplace airborne concentrations below an 8-hour time-weighted average of 0.3 mg/m^3), (g)(3)(ii), (g)(4)(i), (iii) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new to use the substance other than as a component of infrared absorption material. It is a significant new use to use involving an application method that generates a dust, mist, or aerosol, unless the application method occurs within an enclosed process.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (2), (b)(1), (2), (c)(1), and (2).

(v) *Release to water.* Requirements as specific in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 10. Add § 721.11122 to subpart E to read as follows:

§ 721.11122 Fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, tall-oil, polymers with alkanoic acid, substituted carbomonocycle, alkyl peroxide-initiated (PMN P–16–503) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture the substance with an average molecular weight lower than 1,500 dalton or more than 24% by weight of acid monomer in the polymer.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.11123 to subpart E to read as follows:

§ 721.11123 Carboxilic acids, C6–18 and C8–15-di, polymers with diethylene glycol, glycerol, oleic acid, phthalic, acid and sorbitol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as Carboxilic acids, C6–18 and C8–15-di, polymers with diethylene glycol, glycerol, oleic acid, phthalic, acid and sorbitol (CAS: 1877295–51–6) (PMN P–16–570) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b)(concentrations set at 0.1%) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(vi), (ix), (g)(2)(i), (ii), (iii), (v), (g)(3)(i), (g)(4)(iii) and (g)(5). Alternative hazard and warning

statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new use to use the substance other than as an aromatic polyester polyol for manufacturing rigid foam. It is a significant new use to manufacture the substance with residual phthalate greater than 0.1% by weight. It is a significant new use to modify the manufacturing, processing or use activities of the PMN substance to result in the generation of a vapor, mist or aerosol.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

[FR Doc. 2018–18534 Filed 8–24–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2017–0464; FRL–9982–24]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 19 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 19 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: This rule is effective on October 26, 2018. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on September 10, 2018.

Written adverse comments on one or more of these SNURs must be received on or before September 26, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse comments on one or more of these SNURs before September 26, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0464, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after September 26, 2018 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the Agency taking?

1. *Direct Final Rule.* EPA is promulgating these SNURs using direct final rule procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices obligates EPA to assess risks that may be associated with the significant new uses under the conditions of use and, if appropriate, to regulate the proposed uses before they occur.

2. *Proposed Rule.* In addition to this Direct Final Rule, elsewhere in this issue of the **Federal Register**, EPA is issuing a Notice of Proposed Rulemaking for this rule. If EPA receives no adverse comment, the Agency will not take further action on the proposed rule and the direct final rule will become effective as provided in this action. If EPA receives adverse comment on one or more of SNURs in this action by September 26, 2018 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**), the Agency will publish in the **Federal Register** a timely withdrawal of the specific SNURs that the adverse comments pertain to, informing the public that the actions will not take effect. EPA would then address all adverse public comments in a response to comments document in a subsequent final rule, based on the proposed rule.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA furthermore prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 19 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) Order.
- Information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR. This information may include testing required in a TSCA section 5(e) Order to be conducted by the PMN submitter, as well as testing not required to be conducted but which would also help characterize the potential health and/or environmental effects of the PMN substance. Any recommendation for information identified by EPA was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential

future testing. See Unit VIII. for more information.

• CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of these rules specify the activities designated as significant new uses. Certain new uses, including exceedance of production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These rules include 19 PMN substances that are subject to Orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that it has insufficient information to conduct a reasoned evaluation and the activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) Order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) Orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs that are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) Order for the same chemical substance.

PMN Number P–15–719

Chemical name: Benzene, 1,4-bis(alkyl)-, homopolymer (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 24, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a flame retardant synergist and radical source. Based on test data and analog data EPA estimates that the PMN substances will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. Because the PMN substance is expected to be persistent and bioaccumulative, EPA is unable to assess the potential risks to sediment dwelling organisms. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), as well as 5(a)(3)(B)(i) and 5(e)(1)(A)(i) based on findings that the substance may present an unreasonable risk of injury to health and the environment, and that the information available to the Agency is insufficient to permit a reasoned evaluation of the environmental effects of the PMN substance. To protect against potential risks, the Order requires:

1. Submit to EPA certain toxicity testing prior to exceeding the confidential production volume limits specified in the Order;
2. Label containers of the substance and provide Safety Data Sheets (SDS) or Material Safety Data Sheets (MSDS) and worker training in accordance with the provisions of the Hazard Communication Program section;
3. Not use the substance other than for the confidential uses allowed in the Order;
4. Dispose of the substance only by incineration or landfill; and
5. Comply with the release to water provisions.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental fate, bioaccumulation, and environmental toxicity of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the confidential production limit without performing specific aquatic toxicity, bioaccumulation and environmental fate testing.

CFR citation: 40 CFR 721.11097.

PMN Number P–16–99

Chemical name: Polyethylene glycol polymer with aliphatic polycarbodiimide Bis(alkoxysilylpropyl) amine blocked (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 30, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as an additive for industrial coatings. EPA identified concerns for irritation to all issues and lung toxicity based on SAR analysis of test data on analogous alkoxysilanes and concerns for acute toxicity, neurotoxicity (especially to the eye), and liver, kidney, and cardiac toxicity based on the release of methanol. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing prior to exceeding the confidential aggregate production volume limit specified in the Order;
2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposure);
3. Use of a National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an Applied Protection Factor (APF) of at least 10 (where there is a potential for inhalation exposure) or compliance with a New Chemicals Exposure Limit (NCEL) of 0.9 milligrams per cubic meter as an 8-hour time-weighted average to prevent inhalation exposure. (EPA's estimates indicate that variations of the parameters (including batch size, number of processing sites, days per year of operation) of the uses identified below would not result in inhalation exposure that would indicate a different respirator.)
4. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS.
5. Not use the substance other than for the use allowed in the Order in commercial use (as that term is defined in 40 CFR 721.3) but without any use in

a consumer setting (as that term is defined in 40 CFR 721.3);

6. Not exceed the confidential annual production volume limit in the Order; and

7. No manufacture of the substance where there is more than 0.2% residual isocyanate.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the confidential production limit without performing specific pulmonary and internal organ toxicity testing.

CFR citation: 40 CFR 721.11098.

PMN Number P–16–221

Chemical name: Fluorinated organopolysilazane (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 20, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as a coating agent for optical lenses. EPA identified human health and environmental concerns because the potential degradation products of the PMN substance may be persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the PMN substance degradation products will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. EPA also identified concerns for liver toxicity, blood toxicity, male reproductive toxicity, and toxicity to aquatic organisms, terrestrial mammals and birds based on data for the PMN substance degradation product. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding a total production volume of 204 kilograms, as specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

3. No use of the substance other than allowed by the Order which is the confidential coating system described in the PMN;

4. Manufacture not to exceed an annual manufacture volume of 100 kilograms;

5. Refrain from domestic manufacture in the United States (*i.e.,* import only); and

6. No release of the PMN substance to surface waters.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific internal organ toxicity testing on the degradation product of the PMN substance. In addition, EPA has determined that the results of specific organ toxicity on degradations products of the PMN substance may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11099.

PMN Number P–16–359

Chemical name: Carbopolycycle-bis(diazonium), dihalo-, chloride (1:2), reaction products with metal hydroxide, 4-[(dioxoalkyl)amino]substituted benzene, 2-[(dioxoalkyl)amino]substituted benzene, 5-[(dioxoalkyl)amino]-2-hydroxy-substituted benzene and oxo-n-phenylalkanamide (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 20, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a pigment additive for industrial coatings. EPA identified concerns for oncogenicity and mutagenicity for the PMN substance degradation product. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for inhalation exposures);

3. Establishment and use of a hazard communication program, including precautionary statements on each label and in SDS;

4. No processing or use of the substance at temperatures greater than 200 degrees Celsius; and

5. No domestic manufacture of the substance.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate and biodegradability of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific biodegradability and photolysis tests.

CFR citation: 40 CFR 721.11100.

PMN Number P–16–363

Chemical name: Blocked polyester polyurethane, neutralized (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 20, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be an open non-dispersive use. EPA identified concerns for irritation, sensitization, and lung toxicity based on analogy to diisocyanates and cationic binding to lung tissue. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against potential risks, the Order requires:

1. Use personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

2. Establishment and use of a hazard communication program, including

precautionary statements on each label and in the SDS;

3. Manufacture (including import) the substance with a residual of free isocyanate monomers no greater than 0.1% by weight;

4. Refraining from manufacture, processing, or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols;

5. Refraining from manufacture, processing, or use for consumer use or in commercial use (as that term is defined in 40 CFR 721.3) where there is use in a consumer setting (as that term is defined in 40 CFR 721.3); and

6. Manufacture, process, or use the substance only in an aqueous formulation.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity testing and a sensitization test of the PMN substance may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, use, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11101.

PMN Number P–16–370

Chemical name: Methoxy-terminated polysiloxane (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 18, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a crosslinker for adhesives and coatings. EPA identified concerns for irritation to the skin, eyes, lung, and mucous membranes and other lung effects on analogy to alkoxysilanes. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;

4. Use of a NIOSH-certified respirator with an APF of at least 10 (where there is a potential for inhalation exposures) or compliance with a NCEL of 8.4 milligrams per cubic meter as an 8-hour time-weighted average to prevent inhalation exposure. (EPA's estimates indicate that variations of the parameters (including batch size, number of processing sites, days per year of operation) of the uses identified below would not result in inhalation exposure that would indicate a different respirator.)

5. Refraining from modifying the manufacture, processing, or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols; and

6. Refraining from manufacture, processing, or use for consumer use or in commercial use (as that term is defined in 40 CFR 721.3) where there is use in a consumer setting (as that term is defined in 40 CFR 721.3).

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific pulmonary toxicity testing.

CFR citation: 40 CFR 721.11103.

PMN Number P–16–376

Chemical name: Hydroxystyrene resin (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 16, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be for photolithography. EPA identified potential health and environmental toxicity if the PMN substance is manufactured at a lower molecular weight. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires manufacture of the substance at an average molecular weight greater than 2906 daltons and with 0.5 percent low weight molecular species less than 500 daltons and 1.0 percent low weight molecular species less than 1,000 daltons.

The SNUR designates as a ''significant new use'' the absence of this protective measure.

Potentially useful information: EPA has determined that certain information about the physical-chemical properties and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of physical-chemical property tests, internal organ effects testing, and aquatic toxicity tests may be potentially useful in characterizing the health and environmental effects of the PMN substance. Although the Order does not require this testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request

CFR citation: 40 CFR 721.11104.

PMN Number P–16–487

Chemical name: Benzenesulfonic acid 1,2-diazenediylbis[6-ethenyl]-3-sulfophenyl diazenyl-2-sulfophenyl ethenyl salt (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 27, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as a yellow dye for paper. EPA identified concerns for developmental, reproductive, liver, kidney, and blood toxicity based for the azo reduction products of the substance based on analogue data. Based on SAR analysis for acid dyes, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 55 parts per billion (ppb) in surface waters. The

Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), as well as 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance may present an unreasonable risk of injury to health and the environment and that the substance is or will be produced in substantial quantities and there is or may be significant (substantial) human exposure to the substance. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the confidential production volume limits specified in the Order;
2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);
3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;
4. No manufacture of the substance in the United States (*i.e.* import only);
5. Import the substance only as a solution;
6. No use of the substance other than for the confidential uses allowed in the Order; and
7. Not release the substance in surface waters resulting in concentrations that exceed 55 ppb.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific photolysis, internal organ effects, reproductive/developmental toxicity, and aquatic toxicity tests.

CFR citation: 40 CFR 721.11105.

PMN Number P–16–533

Chemical name: Ethanaminium, alkyl-, salt with triazole (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 24, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a cleaning agent for electronics manufacture. EPA identified concerns for neurotoxicity, developmental and reproductive toxicity, irritation, corrosion, sensitization, and carcinogenicity based on analogy to benzotriazole and quaternary amines. Based on SAR analysis of test data on analogous benzotriazoles, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 570 ppb in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the confidential production volume limits specified in the Order;
2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposure);
3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;
4. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols;
5. No use other than confidential use allowed by the Order; and
6. No release of the substance to surface waters.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific internal organ effects testing of the PMN substance. In addition, EPA has determined that the results of acute and chronic aquatic toxicity testing may be potentially useful in characterizing the environmental effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11105.

PMN Number P–16–595

Chemical name: Substituted-(hydroxyalkyl)-alkyl-alkanoic acid, hydroxy-(substitutedalkyl)-alkyl-, polymer with alpha-hydro-omega-hydroxypoly[oxy (alkylethanediyl)] and isocyanato-(isocyanatoalkyl)-multialkylcycloalkane, salt, alkanol-blocked, compds. (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 27, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a polymer. EPA identified concerns for irritation to skin, eyes, and lung, kidney and developmental effects based on functional groups present as part of the PMN structure. Based on SAR analysis of test data on analogous polyanionic polymers, EPA identified potential environmental toxicity if the substance is produced with a different average molecular weight or proportion of repeating units. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. No manufacture of the substance in the United States (*i.e.* import only);
2. Import of the substance under the confidential conditions required by the Order;
3. No use of the substance other than as the confidential use allowed described in the Order; and
4. No release of the substance to surface waters.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the physical-chemical properties and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of physical-chemical property measurements, acute toxicity tests, and acute and chronic aquatic toxicity tests may be potentially useful in characterizing the health and environmental effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect

until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11106.

PMN Number P–17–170

Chemical name: Alkanediol, 2,2-bis (substituted alkyl)- polymer with substituted alkane, heteromonocycles, alkenoate (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 12, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as an ultraviolet curable coating resin for three-dimensional printing applications. EPA identified concerns for oncogenicity, developmental toxicity, liver and kidney effects, sensitization, and irritation based on analogy to acrylates. EPA also identified additional human health concerns and environmental toxicity concerns if the polymer is made differently than described in the PMN. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the aggregate production volume limit of 105,000 kilograms specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure including gloves (where there is a potential for dermal exposures);

3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;

4. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols;

5. No use other than as an ultraviolet curable coating resin for three-dimensional printing applications;

6. Manufacture of the substance with no greater than 0.1% residual isocyanate; and

7. Manufacture of the substance with an average molecular weight greater than 1,000 daltons.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the physical-chemical properties and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific mutagenicity and sensitization testing of the PMN substance. In addition, EPA has determined that the results of physical-chemical property measurements, internal organ toxicity tests, and acute and chronic aquatic toxicity tests may be potentially useful in characterizing the environmental effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11107.

PMN Number P–17–172

Chemical name: Sulfurized alkylphenol, calcium salts (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: June 19, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a lubricating oil additive. EPA identified concerns for lung toxicity based on submitted test data and data for analogous chemicals. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), as well as 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment, and the substance is or will be produced in substantial quantities and there is or may be significant (substantial) human exposure to the substance. To protect against potential risks, the Order requires:

1. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols; and

2. No use other than the confidential use allowed by the Order;

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects testing may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11108.

PMN Number P–17–177

Chemical name: Monoheteropentacycloalkane-4-carboxylic acid, substituted cyclo-alkyl ester (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 28, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be for microlithography for electronic device manufacturing. EPA identified human health and environmental concerns because the substance may be persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the substance will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. EPA identified concerns for oncogenicity, developmental toxicity, liver and kidney effects, sensitization, and irritation based on data for analogous chemicals. Based on SAR estimates for esters and other analogous chemicals. EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

2. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;

3. No manufacture of the substance in the United States (*i.e.* import only);

4. No use other than the confidential use allowed by the Order;

5. No exceedance of the confidential annual production volume limit in the Order; and

6. No release of the substance to surface waters.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of acute toxicity, mutagenicity, sensitization, internal organ toxicity, reproductive/developmental toxicity, biodegradation, bioconcentration, and acute and chronic aquatic toxicity testing may be potentially useful in characterizing the health and environmental effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11109.

PMN Number P–17–179

Chemical name: Modified carboxypolyamine salt (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 31, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the substance will be used as a dispersive additive for pigments in industrial paints and coatings. EPA identified concerns for skin irritation and lung toxicity based on cationic binding properties. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before excceding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;

4. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols;

5. No use other than a dispersive additive for pigments in industrial paints and coatings;

6. No processing or use of the substance in a paint or coating formulation greater than 1% by weight or volume; and

7. No manufacture of the substance in the United States (*i.e.* import only).

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific pulmonary effects testing of the PMN substance.

CFR citation: 40 CFR 721.11110.

PMN Number P–17–222

Chemical name: 1, 3,5-Triazine-2,4-diamine, 6-phenyl-, reaction products with polyalkylene glycol mono- alkyl ether and 2,4-toluene diisocyanate (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 28, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as an additive open non-dispersive use. EPA identified concerns for dermal sensitization, respiratory sensitization, lung effects, neurotoxicity, and developmental toxicity based on the potential for residual diisocyanates. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols;

2. Not sell the substance for ''consumer use'' or for ''commercial uses'' (as the term is defined at 40 CFR 721.3) when the ''saleable goods or service'' could introduce the material into a ''consumer'' setting (as that term is defined in 40 CFR 721.3);

3. Use the substance only in a formulation for the use allowed in the Order with isocyanate residuals not greater than 0.1 percent by weight or volume; and

4. Import the substance where there is no more than 0.15% residual toluene isocyanate.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of a sensitization test and pulmonary effects test may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11111.

PMN Number P–17–231

Chemical name: Fatty acids, polymers with benzoic acid, cyclohexanedicarboxylic acid anhydride, aliphatic diisocyanate, alkyl diol, alkyl triol, pentaerythritol, phthalic anhydride, polyalkylene glycol amine, and aromatic dicarboxylate sulfonic acid sodium salt (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 20, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a paint, stain, or primer coating. EPA identified concerns for dermal sensitization, respiratory sensitization, lung effects, neurotoxicity, and developmental toxicity based on the potential for residual diisocyanates. The Order was issued under TSCA sections

5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to health and the environment.

To protect against potential risks, the Order requires:

1. Manufacture of the substance where there is no more than 0.1% residual isocyanate.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of a sensitization test and a pulmonary effects test may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11112.

PMN Numbers P–17–247 and P–17–248

Chemical names: Branched alkyl (C=17) carboxylic acid (generic) (P–17–247) and branched alkyl (C=18) alcohol (generic) (P–17–248).

CAS numbers: Not available.

Effective date of TSCA section 5(e) Order: June 29, 2017.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as chemical raw materials. EPA identified human health and environmental concerns because the substances may be persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the substances will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on analogue data EPA identified concerns for developmental toxicity, liver, kidney, and thyroid effects, dermal sensitization, and irritation. Based on SAR estimates for neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb in surface waters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substances may present an unreasonable risk of injury to health and the environment. To protect against potential risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the confidential production volume limit specified in the Order;

2. Use of personal protective equipment to prevent dermal exposure (where there is a potential for dermal exposures);

3. Establishment and use of a hazard communication program, including precautionary statements on each label and in the SDS;

4. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols;

5. No use other than as a chemical intermediate;

6. No manufacture of the substances in the United States (*i.e.* import only); and

7. No release of the substances to surface waters.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the bioaccumulation and toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the production limit in the Order without performing specific sensitization, internal organ effect, and reproductive/developmental testing of the PMN substances. In addition, EPA has determined that the results of acute aquatic toxicity and bioaccumulation testing may be potentially useful in characterizing the environmental and health effects of the PMN substances. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citations: 40 CFR 721.11113 P–17–247 and 40 CFR 721.11114 P–17–248.

PMN Number P–17–260

Chemical name: Alkoxy silane modified butadiene styrene copolymer (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) Order: July 10, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a resin modifier. EPA identified concerns for lung effects based on test data for the substance and data for analogous alkoxysilane non-ionic polymers. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against potential risks, the Order requires:

1. Refrain from manufacture, process or use activities that result in inhalation exposure to vapor, dust, mist or aerosols; and

2. No use other than the confidential use allowed by the Order;

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects test may be potentially useful in characterizing the health effects of the PMN substance. Although the Order does not require this additional testing, the Order's restrictions on manufacture, processing, distribution in commerce, use, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other information that EPA determines is relevant and needed to evaluate a modification request.

CFR citation: 40 CFR 721.11115.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for all 19 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical

substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters.

The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.
- EPA will identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule. The effective date of this rule is October 26, 2018 without further notice, unless EPA receives written adverse comments before September 26, 2018.

If EPA receives written adverse comments on one or more of these SNURs before September 26, 2018, EPA will withdraw the relevant sections of this direct final rule before its effective date.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse comments must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) Orders have been issued for all of the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) Orders from undertaking activities which will be designated as significant new uses. The identities of the 19 chemical substances subject to these rules have been claimed as confidential and EPA has received no post-PMN *bona fide* submission (per §§ 720.25 and 721.11) for a chemical substance covered by this action. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates August 27, 2018 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the direct final rule. In developing this rule, EPA has recognized that, given EPA's practice of on occasion posting rules on its website a week or more in advance of **Federal Register** publication, this objective could be thwarted even before that publication.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date will have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons will have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: Development of test data is required where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)).

In the absence of a TSCA section 4 test rule covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information for all of the listed SNURs. Descriptions of this information is provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In certain of the TSCA section 5(e) Orders for the chemical substances regulated under this rule, EPA has established production volume limits in

view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of specified tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) Orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) Orders required submissions at least 12 weeks) before reaching the specified production limit. The SNURs contain the same production volume limits as the TSCA section 5(e) Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the Orders was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

The potentially useful information identified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data or other information may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to generate useful information.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at § 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and § 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2017–0464.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have

already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this action.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 17, 2018.

Jeffery T. Morris,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.11097	2070–0012
721.11098	2070–0012
721.11099	2070–0012
721.11100	2070–0012
721.11101	2070–0012
721.11102	2070–0012
721.11103	2070–0012
721.11104	2070–0012
721.11105	2070–0012
721.11106	2070–0012
721.11107	2070–0012
721.11108	2070–0012
721.11109	2070–0012
721.11110	2070–0012
721.11111	2070–0012
721.11112	2070–0012
721.11113	2070–0012
721.11114	2070–0012
721.11115	2070–0012
* * * * *	

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PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.11097 to subpart E to read as follows:

§ 721.11097 Benzene, 1,4-bis(alkyl)-, homopolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically benzene, 1,4-bis(alkyl)-, homopolymer (PMN P–15–719) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentrations set at 1.0 percent), (f), (g)(4)(i), (iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1), (2), (b)(1), (2), (c)(1), and (2).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (f) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 5. Add § 721.11098 to subpart E to read as follows:

§ 721.11098 Polyethylene glycol polymer with aliphatic polycarbodiimide bis(alkoxysilylpropyl) amine blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyethylene glycol polymer with aliphatic polycarbodiimide bis(alkoxysilylpropyl) amine blocked (PMN P–16–99) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(5) (respirators must provide a National Institute for Occupational Safety and Health (NIOSH) with an assigned protection factor (APF) of at least 10), (a)(6)(particulate), (b)(concentrations set at 1.0 percent) and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 0.9 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 1.0 percent), (f), (g)(1)(ii), (g)(2)(ii), (iii), (use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.9 mg/m^3), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (q) and (t). It is a significant new use to process or use the chemical substance other than for commercial use but without any use in a consumer setting. It is a significant new use to manufacture the chemical substance containing greater than 0.2% residual isocyanate.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 6. Add § 721.11099 to subpart E to read as follows:

§ 721.11099 Fluorinated organopolysilazane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a fluorinated organopolysilazane (PMN P–16–221) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering

control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(6)(particulate), (a)(6)(v), (vi), (b)(concentrations set at 1.0 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (p) (204 kilograms) and (s)(100 kilograms). It is a significant new use to use the substance other than in confidential coating system allowed in the Order.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 7. Add § 721.11100 to subpart E to read as follows:

§ 721.11100 Carbopolycycle-bis(diazonium), dihalo-, chloride (1:2), reaction products with metal hydroxide, 4-[(dioxoalkyl)amino]substituted benzene, 2-[(dioxoalkyl)amino]substituted benzene, 5-[(dioxoalkyl)amino]-2-hydroxy-substituted benzene and oxo-n-phenylalkanamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbopolycycle-bis(diazonium), dihalo-, chloride (1:2), reaction products with metal hydroxide, 4-[(dioxoalkyl)amino] substituted benzene, 2-[(dioxoalkyl)amino]substituted benzene, 5-[(dioxoalkyl) amino] 2-hydroxy-substituted benzene and oxo-n-phenylalkanamide (PMN P–16–359) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(6)(particulate), (a)(6)(v), (vi), (b)(concentrations set at 0.1 percent) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1 percent), (f), (g)(1)(iv), (vii), (g)(2)(i), (ii), (do not process or use at greater than 200 degrees Celsius), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f) and (q). It is a significant new use to process or use the PMN substance at a temperature greater than 200 degrees C.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 8. Add § 721.11101 to subpart E to read as follows:

§ 721.11101 Blocked polyester polyurethane, neutralized (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as blocked polyester polyurethane, neutralized (PMN P–16–363) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(2)(i), (ii), (iii), (a)(3), (a)(6)(particulate), (a)(6)(v), (vi) (b)(concentrations set at 0.1 percent) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72 (a) through (e)(concentration set 0.1 percent), (f), (g)(1)(i), (ii), (g)(2)(i), (ii), (iii), (iv), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 It is a significant new use to manufacture, process, or use the substance with a residual of free isocyanate monomers greater than 0.1 percent by weight. It is a significant new use to modify manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance. It is a significant new use to manufacture, process, or use the substance for consumer use, or for commercial uses when the saleable goods or service could introduce the substance into a consumer setting. It is a significant new use to manufacture, process, or use the substance other than in an aqueous formulation.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.11102 to subpart E to read as follows:

§ 721.11102 Methoxy-terminated polysiloxane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as methoxy-terminated polysiloxane (PMN P–16–370) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in

§ 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), (a)(4), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(5) (respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 25), (a)(6)(particulate), (a)(6)(v), (vi), (b)(concentrations set at 1.0 percent), and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 8.4 milligrams per cubic meter as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 1.0 percent), (f), (g)(1)(i), (ii), (g)(2)(i), (ii), (iii), (use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 8.4 mg/m3), (g)(2)(v), (do not use for spray application), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q), and (y)(1). It is a significant new use to manufacture, process, or use the substance for consumer use, or for commercial uses when the saleable goods or service could introduce the substance into a consumer setting.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 10. Add § 721.11103 to subpart E to read as follows:

§ 721.11103 Hydroxystyrene resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydroxystyrene resin (PMN P–16–376) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 It is a significant new use to manufacture the PMN substance with an average molecular weight less than 2906 daltons and to have greater than 0.5 percent low weight molecular species less than 500 daltons and 1.0 percent low weight molecular species less than 1000 daltons.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.11104 to subpart E to read as follows:

§ 721.11104 Benzenesulfonic acid 1,2-diazenediylbis[6-ethenyl]-3-sulfophenyl diazenyl-2-sulfophenyl ethenyl salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as benzenesulfonic acid 1,2-diazenediylbis[6-ethenyl]-3-sulfophenyl diazenyl-2-sulfophenyl ethenyl salt (PMN P–16–487) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b) (concentration set 1.0 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 1.0 percent), (f), (g)(1)(iv), (vi), (ix), (blood effects), (g)(2)(i), (v), (g)(3)(i), (ii), (g)(4)(water release restrictions apply), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (q). It is a significant new use to import the substance other than in solution.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 55.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 12. Add § 721.11105 to subpart E to read as follows:

§ 721.11105 Ethanaminium, alkyl-, salt with triazole (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ethanaminium, alkyl-, salt with triazole (PMN P–16–533) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), when determining which persons are reasonably likely to be exposed as

required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(6)(particulate), (a)(6)(v), (vi), (b) (concentration set 0.1 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1 percent), (f), (g)(1)(i), (iii), (v), (vii), (ix), (g)(2)(i), (ii), (iii), (v), (g)(3)(i), (ii), (g)(4)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 13. Add § 721.11106 to subpart E to read as follows:

§ 721.11106 Substituted-(hydroxyalkyl)-alkyl-alkanoic acid, hydroxy-(substitutedalkyl)-alkyl-, polymer with alpha-hydro-omega-hydroxypoly[oxy (alkylethanediyl)] and isocyanato-(isocyanatoalkyl)-multialkylcycloalkane, salt, alkanol-blocked, compds. (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted-(hydroxyalkyl)-alkyl-alkanoic acid, hydroxy-(substitutedalkyl)-alkyl-, polymer with alpha-hydro-omega-hydroxypoly [oxy(alkylethanediyl)] and isocyanato-(isocyanatoalkyl)-multialkylcycloalkane, salt, alkanol-blocked, compds. (PMN P–16–595) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). It is a significant new use to import the substance other than as required in the Order.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) (b), (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 14. Add § 721.11107 to subpart E to read as follows:

§ 721.11107 Alkanediol, 2,2-bis (substituted alkyl)- polymer with substituted alkane, heteromonocycles, alkenoate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanediol, 2,2-bis (substituted alkyl)- polymer with substituted alkane, heteromonocycles, alkenoate (PMN P–17–170) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b)(concentration set 0.1 percent), and (c)

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1 percent), (f), (g)(1)(i), (ii), (v), (vii), (ix), (g)(2)(i), (v), (g)(4) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (k)(ultraviolet curable coating resin for three dimensional printing applications) and (p)(105,000 kilograms). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance. It is a significant new use to manufacture the chemical substance containing greater than 0.1 percent residual isocyanate or an average molecular weight below 1,000 daltons.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 15. Add § 721.11108 to subpart E to read as follows:

§ 721.11108 Sulfurized alkylphenol, calcium salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfurized alkylphenol, calcium salts (PMN P–17–172) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 16. Add § 721.11109 to subpart E to read as follows:

§ 721.11109 Monoheteropentacycloalkane-4-carboxylic acid, substituted cyclo-alkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as monoheteropentacycloalkane-4-carboxylic acid, substituted cyclo-alkyl ester (PMN P–17–177) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b)(concentration set 0.1 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1 percent), (f), (g)(1)(i), (ii), (iv), (vi), (vii), (ix), (skin, eye, and mucous membrane irritation), (g)(2)(i), (ii), (iii), (v), (g)(3)(i), (ii), (g)(4)(i), (ii), (iii) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 17. Add § 721.11110 to subpart E to read as follows:

§ 721.11110 Modified carboxypolyamine salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified carboxypolyamine salt (PMN P–17–179) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (iv), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(6)(particulate), (a)(6)(v), (vi), (b)(concentration set 0.1 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1 percent), (f), (g)(1)(i), (ii), (g)(2)(i), (ii), (v), (g)(3)(i), (ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k)(dispersive additive for pigments in industrial paints and coatings) and (q). It is a significant new use to process or use the substance in a paint or coating formulation greater than 1 percent by weight or volume. It is a significant new use to process or use the substance resulting in inhalation exposure to a vapor, dust, mist or aerosol at greater than 1 percent by weight or volume.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 18. Add § 721.11111 to subpart E to read as follows:

§ 721.11111 1,3,5-Triazine-2,4-diamine, 6-phenyl-, reaction products with polyalkylene glycol mono- alkyl ether and 2,4-toluene diisocyanate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1,3,5-triazine-2,4-diamine, 6-phenyl-, reaction products with polyalkylene glycol mono-alkyl ether and 2,4-toluene diisocyanate (PMN P–17–222) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k)(use of the substance in the formulation for the use allowed in the Order with isocyanate residuals not greater than 0.1 percent by weight or volume). It is a significant new use to process or use the chemical substance other than for commercial use but without any use in a consumer setting. It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance. It is a significant new use to import the chemical substance containing greater than 0.15 percent residual isocyanate.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 19. Add § 721.11112 to subpart E to read as follows:

§ 721.11112 Fatty acids, polymers with benzoic acid, cyclohexanedicarboxylic acid anhydride, aliphatic diisocyanate, alkyl diol, alkyl triol, pentaerythritol, phthalic anhydride, polyalkylene glycol amine, and aromatic dicarboxylate sulfonic acid sodium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, polymers with benzoic acid, cyclohexanedicarboxylic acid anhydride, aliphatic diisocyanate, alkyl diol, alkyl triol, pentaerythritol, phthalic anhydride, polyalkylene glycol amine, and aromatic dicarboxylate sulfonic acid sodium salt (PMN P–17–231) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to manufacture the chemical substance containing greater than 0.1 percent residual isocyanate.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 20. Add § 721.11113 to subpart E to read as follows:

§ 721.11113 Branched alkyl (C = 17) carboxylic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as branched alkyl (C = 17) carboxylic acid (PMN P–17–247) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b)(concentration set 1.0 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 1.0 percent), (f), (g)(1)(irritation), (sensitization), (g)(1)(iv), (vi), (ix), (g)(2)(i), (ii), (iii), (v), (g)(3)(i), (ii), (g)(4)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g) and (q). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 21. Add § 721.11114 to subpart E to read as follows:

§ 721.11114 Branched alkyl (C = 18) alcohol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as branched alkyl (C = 18) alcohol (PMN P–17–248) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b)(concentration set 1.0 percent), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 1.0 percent), (f), (g)(1)(irritation), (sensitization), (g)(1)(iv), (vi), (ix), (g)(2)(i), (ii),)(iii), (v), (g)(3)(i), (ii), (g)(4)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (g) and (q). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 22. Add § 721.11115 to subpart E to read as follows:

§ 721.11115 Alkoxy silane modified butadiene styrene copolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkoxy silane modified

butadiene styrene copolymer (PMN P–17–260) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to modify the manufacture, process or use activities if it results in inhalation exposure to vapor, dust, mist or aerosols to the substance.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

[FR Doc. 2018–18403 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 18–214, 12–268; FCC 18–113]

LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: In this document, the Commission directs the Media Bureau to engage a contractor to assist in the reimbursement process and administration of the Reimbursement Fund for LPTV, TV translator, and FM stations, and also directs the Bureau to make determinations regarding eligible costs and the reimbursement process, such as calculating the amount of allocations to eligible entities and seeking comment on a revised Catalog of Eligible Expenses. The Commission also determines that the Media Bureau will announce, pursuant to the requirements in the Reimbursement Expansion Act, when the reimbursement program for all entities eligible for reimbursement pursuant to the Spectrum Act and the Reimbursement Expansion Act will end. Finally, the Commission interprets the Reimbursement Expansion Act as providing at least $50 million for use by the Commission to fund its efforts to educate consumers about the reorganization of broadcast television spectrum under the United States Code.

DATES: This action is effective August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, FCC 18–113, adopted on August 2, 2018, and released on August 3, 2018. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://fjallfoss.fcc.gov/ecfs2/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW, CY–A257, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The *Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995. In addition, therefore, it does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

I. Order

1. *Reimbursement Contractor.* Similar to the approach the Commission took with respect to full power, Class A, and MVPD entities,[1] we direct the Media Bureau to engage a contractor to assist in the reimbursement process and administration of the Reimbursement Fund for LPTV/translator and FM stations. We direct the Media Bureau to engage a third-party contractor to assist in the reimbursement process, which will be overseen by the Bureau.

2. *Reimbursement Process.* We direct the Media Bureau to revise the forms to be used by eligible LPTV/translator and FM stations to claim reimbursement from the Reimbursement Fund and for any other Reimbursement Fund-related purposes. We also direct the Media Bureau to calculate the amount of the allocations to eligible entities from the Reimbursement Fund, develop a revised Catalog of Eligible Expenses, and make other determinations regarding eligible costs and the reimbursement process. Finally, we direct the Media Bureau to implement the necessary policies and procedures relating to eligibility certifications, allocations, draw downs, payments, obligations, and expenditures of money from the Reimbursement Fund in order to protect against waste, fraud, and abuse and in the event of bankruptcy. Given the importance of maintaining the integrity of the Fund, the Media Bureau will consult with the Office of General Counsel and the Office of the Managing Director in acting pursuant to this direction.

3. *Reimbursement Period.* The Reimbursement Expansion Act[2] provides that the Commission must make all reimbursements using the additional funds appropriated by the Reimbursement Expansion Act to the Reimbursement Fund by July 3, 2023.[3] With respect to LPTV/translators and FM stations, we authorize the Media Bureau to announce, in one or more public notices to be issued following the

[1] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* Report and Order, 29 FCC Rcd 6567, 6820, paras. 618–19 (2014), 79 FR 48442 (Aug. 15, 2014), (*Incentive Auction R&O*).

[2] *See* Consolidated Appropriations Act, 2018, Public Law 115–141, at Division E, Title V, sec. 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. 1452(j)–(n)).

[3] *See* 47 U.S.C. 1452(j)(3)(B). Section 511(j)(3)(C) provides that, if all reimbursements pursuant to the Spectrum Act and the Reimbursement Expansion Act have been made before July 3, 2023, ''the Commission shall submit to the Secretary of the Treasury a certification that all such reimbursements have been made.'' *Id.* sec. 1452(j)(3)(C). In addition, the Reimbursement Expansion Act provides that reimbursement payments to LPTV/translator and FM stations may not be made after April 13, 2020 unless the Commission ''submits to Congress a certification that such payments are necessary to reimburse costs reasonably incurred'' by such stations. *See id.* sec. 1452(j)(2)(C)(ii), (iii).

adoption of an *Order,* the date by which these entities must file their Eligibility Certification, when allocations to these entities will be made, the deadline by which these entities must file any remaining requests for reimbursement, and the final date when reimbursement funds will be issued.

4. The Commission indicated in the *Incentive Auction R&O* that the Media Bureau will announce the date by which full power, Class A, and MVPD entities must submit their final expense documentation to the Commission.[4] At the time of that delegation, the Spectrum Act imposed a deadline for the Commission to make all required reimbursements to full power, Class A, and MVPD entities of April 13, 2020.[5] The Reimbursement Expansion Act permits the Commission to extend the deadline for reimbursements to full power, Class A, and MVPD entities, from the funds appropriated for this purpose by the Reimbursement Expansion Act, beyond April 13, 2020,[6] but no later than July 3, 2023, as long as the certification requirements set forth in the Reimbursement Expansion Act are met.[7] The *Incentive Auction R&O* stated that the Media Bureau may announce the final date reimbursement funds will be issued to full power and Class A stations and MVPDs and a deadline for the submission of final expense documentation, and we clarify that the Bureau also is authorized to set deadlines for funds appropriated by the Reimbursement Expansion Act.

5. *Consumer Education.* The Reimbursement Expansion Act provides that at least $50 million from the funds appropriated to the Reimbursement Fund will be available to the Commission to make ''payments solely for the purposes of consumer education relating to the reorganization of broadcast television spectrum'' under 47 U.S.C. 1452(b).[8] We interpret this provision as providing at least $50 million for use by the Commission to fund its efforts to educate consumers about the reorganization of broadcast television spectrum under 47 U.S.C. 1452(b), with any unused funds to be returned to the U.S. Treasury. We anticipate, among other initiatives, hosting a dedicated consumer service call center to provide consumers technical support and assistance on such matters as rescanning and other means to resolve potential reception issues. We also intend to perform targeted outreach to specific communities about rescanning, and, where appropriate, we may use local media or other outreach to disseminate rescanning information. Consumer education funding could also be used in developing additional online resources to support consumers. In all our activities, we will coordinate closely with industry stakeholders to ensure that our consumer education efforts are complementary to, and not duplicative of, industry efforts. In so doing, we will guard against unnecessary or wasteful spending. We welcome input from consumers and industry on other ways we can best use the funding to help mitigate disruption by consumers during the transition period.

II. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

6. Because the actions taken in the *Order* do not require notice and comment, the Regulatory Flexibility Act does not apply.

III. Ordering Clauses

7. *It is ordered* that, pursuant to the authority contained in Sections 1, 4, 5(b), 5(c), 303, and 336(f) of the Communications Act of 1934, as amended, Section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012, and Section 511, Division E, Title V of the Consolidated Appropriations Act, 2018, Pub. L. 115–141 (2018), 47 U.S.C. 151, 154, 155(b), 155(c), 303, 336(f), 1452, the *Order* is *adopted* and will become effective on August 27, 2018.

8. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Order* to the Chief Counsel for Advocacy of the Small Business Administration.

9. *It is further ordered* that the Commission will send a copy of the *Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2018–17945 Filed 8–24–18; 8:45 am]

BILLING CODE 6712–01–P

[4] *See Incentive Auction R&O,* 29 FCC Rcd at 6819, para. 617.

[5] The deadline for full power and Class A stations to transition to their new channels is July 13, 2020.

[6] 47 U.S.C. 1452(j)(2)(C)(i).

[7] *Id.* sec. 1452(j)(3)(B).

[8] *Id.* sec. 1452(j)(2)(A)(iv).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–XG435

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2018 Commercial Accountability Measures and Closure for Atlantic Migratory Group Cobia

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for Atlantic migratory group (Atlantic) cobia that are sold (commercial) and harvested from the exclusive economic zone (EEZ) of the Atlantic. NMFS projects that commercial landings of Atlantic cobia have reached the commercial quota. Therefore, NMFS closes the commercial sector for Atlantic cobia in the EEZ on September 5, 2018, and it will remain closed until the next fishing year that begins on January 1, 2019. This closure is necessary to protect the Atlantic cobia resource.

DATES: This rule is effective from 12:01 a.m., local time, September 5, 2018, until 12:01 a.m., local time, on January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Separate migratory groups of cobia were established in Amendment 18 to the FMP (76 FR 82058, December 29, 2011), and then revised in Amendment 20B to the FMP (80 FR 4216, January 27, 2015). The southern boundary for Atlantic cobia occurs at a line that

extends due east of the Florida and Georgia state border at 30°42′45.6″ N lat. The northern boundary for Atlantic migratory is the jurisdictional boundary between the Mid-Atlantic and New England Fishery Management Councils, as specified in 50 CFR 600.105(a).

Atlantic cobia are unique among federally managed species in the southeast region, because no commercial permit is required to harvest and sell them. The distinction between commercial and recreational sectors is not as clear as other federally managed species in the southeast region. For example, regulations at 50 CFR part 622 specify quotas, annual catch limits, and AMs for cobia that are sold and cobia that are not sold. However, for purposes of this temporary rule, Atlantic cobia that are sold are considered commercially caught, and those that are not sold are considered recreationally caught.

The commercial quota for Atlantic cobia is 50,000 lb (22,680 kg), round or gutted weight, for the 2018 fishing year, which runs from January 1 through December 31 (50 CFR 622.384(d)(2)).

The AM for the commercial sector of Atlantic cobia, specified at 50 CFR 622.388(f)(1)(i), requires that NMFS file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year if commercial landings reach or are projected to reach the commercial quota specified in § 622.384(d)(2). The commercial AM is triggered for 2018, because NMFS projects that commercial landings of Atlantic cobia will reach the commercial quota on September 5, 2018. Accordingly, the commercial sector for Atlantic cobia is closed in the EEZ at 12:01 a.m., local time, on September 5, 2018, and remains closed until the start of the next fishing year on January 1, 2019.

During the commercial closure, the sale and purchase of Atlantic cobia is prohibited. The recreational bag and possession limits for Atlantic cobia apply while the recreational sector is open. The prohibition on sale and purchase does not apply to Atlantic cobia that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, on September 5, 2018, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic cobia and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.388(f)(1)(i) and is exempt from review under Executive Order 12866.

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

This action is based on the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the AM for Atlantic cobia has already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the 2018 fishing year. Prior notice and opportunity for public comment on this action is contrary to the public interest, because of the need to immediately implement the commercial closure to protect Atlantic cobia, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

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

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

Dated: August 22, 2018.

Margo B. Schulze-Haugen,

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

[FR Doc. 2018–18500 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 166
Monday, August 27, 2018

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0696; Product Identifier 2017–SW–101–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 D–2 helicopters. This proposed AD would require replacing the rescue hoist cable cut pushbutton flip guard (flip guard). This proposed AD is prompted by reports of unintended lifting of several flip guards. The actions of this proposed AD are intended to correct an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 26, 2018.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0696; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Clark Davenport, Flight Test Engineer, Flight Test Branch, Compliance and Airworthiness Division, FAA, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone 817 222 5151; email *clark.davenport@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite 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 proposal, 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 that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, 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 this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2017–0038, dated February 22, 2017 (AD No. 2017–0038), to correct an unsafe condition for Airbus Helicopters Models MBB–BK 117 D–2 and MBB–BK 117 D–2m helicopters. The EASA AD advises that multiple events were reported of unintended lifting of the flip guard and that the flip guard has two stable positions, open and closed. AD No. 2017–0038 states that if the unintended lifting is not detected, the requirement for dual action when activating the rescue hoist cable cut is not guaranteed. According to EASA, this condition, if not corrected, could result in inadvertent cutting of the rescue hoist cable and subsequent personal injury.

EASA further advises that Airbus Helicopters has developed an improved mono-stable (closed) flip guard, and AD No. 2017–0038 requires installing the new flip guard and re-identifying the collective lever switch unit.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

Airbus Helicopters has issued Alert Service Bulletin No. MBB–BK117 D–2–67A–002, Revision 0, dated January 23, 2017, which contains procedures for replacing flip guard part number (P/N) 79552176 with improved flip guard P/N 79553511 and for identifying the collective lever switch unit with the Alert Service Bulletin number.

Proposed AD Requirements

This proposed AD would require before the next hoist operation or within

440 hours time in service (TIS), whichever occurs first, replacing the flip guard with flip guard P/N 79553511 on the collective lever switch unit.

Differences Between This Proposed AD and the EASA AD

The EASA AD applies to Model MBB–BK 117 D–2m helicopters; this proposed AD would not as these models are not type certificated in the U.S. Also, the EASA AD requires compliance within 440 hours TIS, this proposed AD would require compliance before the next hoist operation or within 440 hours TIS, whichever occurs first. Finally, the EASA AD requires identifying the collective lever switch unit with the service information number; this proposed AD would not.

Costs of Compliance

We estimate that this proposed AD would affect 21 helicopters of U.S. Registry.

At an average labor rate of $85 per hour, we estimate that operators would incur the following costs in order to comply with this proposed AD. Replacing the flip guard would require about 14 hours, and required parts would cost $735, for a cost per helicopter of $1,925 and a cost of $40,148 to the U.S. fleet.

According to Airbus Helicopter's service information, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Airbus Helicopters. Accordingly, 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, 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 to the extent that it justifies making a regulatory distinction; 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.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2018–0696; Product Identifier 2017–SW–101–AD.

(a) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category, with a cable cut flip guard (flip guard) part number (P/N) 79552176 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as unintended lifting of a flip guard. This condition could result in inadvertent cutting of the rescue hoist cable and subsequent personal injury.

(c) Comments Due Date

We must receive comments by October 26, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Before the next hoist operation or within 440 hours time in service (TIS), whichever occurs first, remove flip guard P/N 79552176 from service and install flip guard P/N 79553511 on the collective lever switch unit.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Clark Davenport, Flight Test Engineer, Flight Test Branch, Compliance and Airworthiness Division, FAA, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone 817 222 5151; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. MBB–BK117 D–2–67A–002, Revision 0, dated January 23, 2017, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0038, dated February 22, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6700 Rotorcraft Flight Control.

Issued in Fort Worth, Texas, on August 13, 2018.

Mitchell Soth,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–18346 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0737; Product Identifier 2017–SW–096–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Leonardo S.p.A. (Type Certificate Previously Held by Finmeccanica S.p.A., AgustaWestland S.p.A.) Model AW139 helicopters. This proposed AD would require inspecting and altering the number 1 driveshaft (driveshaft). This proposed AD is prompted by reports of scratches that were found on the driveshaft. The actions of this proposed AD are intended to prevent an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 26, 2018.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0737; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *david.hatfield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite 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 proposal, 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 that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, 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 this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2017–0011, dated January 25, 2017, to correct an unsafe condition for certain serial-numbered Leonardo S.p.A. (formerly Finmeccanica S.p.A, AgustaWestland S.p.A.) Model AW139 helicopters. EASA advises of several helicopters found with scratches on the driveshaft part-number (P/N) 3G6510A01132 and that an investigation determined only helicopters equipped with rear exhaust module assembly P/N 3G7810A00431 and tunnel assembly P/N 3G7130A13431 are affected. According to EASA, the scratches resulted from insufficient clearance between the driveshaft and the rear exhaust module and tunnel assemblies. EASA further advises that if not corrected, these scratches could lead to a crack in the driveshaft, failure of the tail rotor drive system, and subsequent reduced control of the helicopter. To prevent this potential unsafe condition, the EASA AD requires repetitive inspections of the driveshaft for a crack until the exhaust module and tunnel assembly are modified to increase the clearance.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Leonardo Helicopters Bollettino Tecnico No. 139–465, Revision A, dated January 25, 2017, which contains procedures for visual and eddy-current inspections of the driveshaft. This service information also contains procedures for modifying the exhaust module and tunnel assemblies.

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.

Proposed AD Requirements

This proposed AD would require, within 30 hours time-in-service (TIS) and thereafter at intervals not exceeding 100 hours TIS, inspecting the driveshaft tube P/N 3G6510A00832 for a scratch and indentation. If there is a scratch or indentation, the proposed AD would require, before further flight, repairing the driveshaft tube and performing a depth check of the repaired area. If the repaired area depth is more than 0.2 mm, the proposed AD would require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight. If the depth of the repaired area of the tube is 0.2 mm or less, the proposed AD would require, before further flight, performing an eddy current inspection of the tube for a crack. If there is a crack,

the proposed AD would require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight.

This proposed AD would also require, within 300 hours TIS, altering the rear exhaust module and tunnel assembly, if not previously done as a result of the inspections. Because this proposed AD would also require re-identifying the tunnel assembly part number after it is altered, this would be terminating action for the repetitive inspections.

Costs of Compliance

We estimate that this proposed AD would affect 55 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD, based on an average labor rate of $85 per work-hour. Inspecting, repairing, and eddy-current inspecting the driveshaft tube would require about 6 work-hours, and required parts cost would be minimal, for a cost of $510 per helicopter and $28,050 for the U.S. fleet per inspection cycle. Altering the rear exhaust module and tunnel assembly would require about 20 work-hours, and required parts would cost $1,500, for a cost of $3,200 per helicopter and $176,000 for the U.S. fleet.

If required, replacing a driveshaft tube would require 1 work-hour, and required parts would cost $6,500, for a cost per helicopter of $6,585.

According to Leonardo Helicopter's service information some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo Helicopters. Accordingly, 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, 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 to the extent that it justifies making a regulatory distinction; 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.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.A. (Type Certificate Previously Held by Finmeccanica S.p.A, AgustaWestland S.p.A.): Docket No. FAA–2018–0737; Product Identifier 2017–SW–096–AD.

(a) Applicability

This AD applies to Model AW139 helicopters, serial numbers 31499, 31504, 31507, 31509, 31512, 31518, 31519, 31524, 31529, 31533, 31535 through 31564, 31567, 31569, 31570, 31589, 41363, 41368 through 41370, 41372 through 41375, 41378, 41381, and 41384, with a tunnel assembly part number 3G7130A13431 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a tail rotor driveshaft, which could result in failure of the tail rotor drive system and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by October 26, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 30 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, inspect the number 1 driveshaft tube shaft, P/N 3G6510A00832, for a scratch and indentation in the area depicted in Figure 1 of Leonardo Helicopters Bollettino Tecnico No. 139–465, Revision A, dated January 25, 2017 (BT 139–465). If there is a scratch or indentation, before further flight:

(i) Repair the tube shaft in accordance with the Compliance Instructions, Part I, paragraphs 7.1 through 7.3, of BT 139–465.

(ii) Measure the depth of the repaired areas as depicted in Figure 2 of BT 139–465.

(A) If the depth of the reworked area is 0.2 mm (0.079 inch) or less, eddy-current inspect the driveshaft for a crack as described in the Compliance Instructions, Annex A, of BT 139–465. If there is a crack, before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

(B) If the depth of the reworked area is more than 0.2 mm (0.079 inch), before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

(2) Within 300 hours TIS, unless already accomplished as required by paragraph (e)(1)(ii) of this AD, alter the rear exhaust module and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that

you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0011, dated January 25, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6510 Tail Rotor Driveshaft.

Issued in Fort Worth, Texas, on August 10, 2018.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–18472 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–112176–18]

RIN 1545–BO89

Contributions in Exchange for State or Local Tax Credits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notification of public hearing.

SUMMARY: This document contains proposed amendments to regulations under section 170 of the Internal Revenue Code (Code). The proposed amendments provide rules governing the availability of charitable contribution deductions under section 170 when a taxpayer receives or expects to receive a corresponding state or local tax credit. This document also proposes amendments to the regulations under section 642(c) to apply similar rules to payments made by a trust or decedent's estate. This document provides notification of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by October 11, 2018. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for November 5, 2018, must be received by October 11, 2018.

ADDRESSES: Send submissions to Internal Revenue Service, CC:PA:LPD:PR (REG–112176–18), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG–112176–18), Courier's Desk, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–112176–18). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Merrill D. Feldstein and Mon Lam at (202) 317–4059; concerning submission of comments and requests for a public hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 170(a)(1) generally allows an itemized deduction for any ''charitable contribution'' paid within the taxable year. Section 170(c) defines ''charitable contribution'' as a ''contribution or gift to or for the use of'' any entity listed in that subsection. Section 170(c)(1) includes a contribution or gift to or for the use of a State, a possession of the United States, or any political subdivision of the foregoing, but only if the contribution or gift is made exclusively for public purposes. Section 170(c)(2) includes, in general, a contribution or gift to or for the use of certain corporations, trusts, or community chests, funds, or foundations, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

Section 164 generally allows an itemized deduction for the payment of certain taxes, including state and local, and foreign, real property taxes; state and local personal property taxes; and state and local, and foreign, income, war profits, and excess profits taxes. Section 164(b)(6), as added by section 11042 of ''An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018'' (the Act), Public Law 115–97, limits an individual's deduction for the aggregate amount of state and local taxes paid during the calendar year to $10,000 ($5,000 in the case of a married individual filing a separate return). This new limitation applies to taxable years beginning after December 31, 2017, and before January 1, 2026.

I. The Charitable Contribution Deduction

In 1986, the Supreme Court interpreted the phrase ''charitable contribution'' in section 170. *See United States* v. *American Bar Endowment,* 477 U.S. 105, 116–118 (1986). The Court held that the ''*sine qua non* of a charitable contribution is a transfer of money or property without adequate consideration''—that is, without the expectation of a *quid pro quo. Id.* at 118. A ''payment of money generally cannot constitute a charitable contribution if the contributor expects a substantial benefit in return.'' *Id.* at 116. The Court recognized that some payments may have a ''dual character''—part charitable contribution and part *quid pro quo*—whereby the taxpayer receives some ''nominal benefit'' of lesser value than the payment. *Id.* at 117. In such cases, the Court reasoned, ''it would not serve the purposes of § 170 to deny a deduction altogether.'' *Id.* Instead, the Court held, the charitable contribution deduction is allowed, but only to the extent the amount donated or the fair market value of the property transferred by the taxpayer exceeds the fair market value of the benefit received in return, and only if the excess amount was transferred with the intent of making a gift. *Id.*

For the benefit received in return to reduce the allowable charitable contribution deduction under section 170, the benefits received, or expected to be received, by a donor need only be greater than those benefits that inure to the general public from transfers for charitable purposes. *See, e.g., Singer Co.* v. *United States,* 449 F.2d 413, 422–423 (Ct. Cl. 1971); *American Bar Endowment,* 477 U.S. at 116–17 (citing *Singer*); *Hernandez* v. *Commissioner,* 490 U.S. 680 (1989). In addition, the benefits received need not come directly from the donee to reduce the allowable deduction, nor do they need to be specifically quantifiable at the time of transfer. *See, e.g., Singer,* 449 F.2d at 422. The Treasury Department and the IRS have incorporated many of these principles into regulations under section 170. Section 1.170A–1(h)(1) of the Income Tax Regulations provides, for example, that no part of a payment that a taxpayer makes to or for the use of an organization described in section 170(c) that is in consideration for (as defined in § 1.170A–13(f)(6)) goods or services (as defined in § 1.170A–13(f)(5)) is a contribution or gift within the meaning of section 170(c) unless the taxpayer (i) intends to make a payment

in an amount that exceeds the fair market value of the goods or services; and (ii) makes a payment in an amount that exceeds the fair market value of the goods or services. Section 1.170A–13(f)(5) defines goods or services to include cash, property, services, benefits, and privileges, and § 1.170A–13(f)(6) provides that a donee provides goods or services in consideration for a taxpayer's payment if, at the time the taxpayer makes the payment to the donee organization, the taxpayer receives or expects to receive goods or services in exchange for that payment.

II. State and Local Tax Credit Programs

In recent years, it has become increasingly common for states and localities to provide state or local tax credits in return for contributions by taxpayers to or for the use of certain entities listed in section 170(c). As the use of these tax credit programs by states and localities became more common, the IRS Office of Chief Counsel (IRS Chief Counsel), in multiple Chief Counsel Advice memoranda (CCAs), considered whether the receipt of state tax credits under these programs were *quid pro quo* benefits that would affect the amount of taxpayers' charitable contribution deductions under section 170(a). Although CCAs are released to the public for information purposes, it should be noted that CCAs are not official rulings or positions of the IRS, are not ordinarily reviewed by the Treasury Department, and are not precedential.

In CCAs issued in 2002 and 2004, IRS Chief Counsel reviewed programs involving the issuance of state tax credits in return for the transfer of conservation easements and for payments to certain child care organizations. *See* CCA 200238041 (July 24, 2002); CCA 200435001 (July 28, 2004). In these CCAs, IRS Chief Counsel recognized that these programs raised complex questions and recommended that the tax credit issue be addressed through official published guidance.

In 2010, another CCA explained that published guidance on the issue was not contemplated at that time, but it offered further advice. *See* CCA 201105010 (Oct. 27, 2010) (the 2010 CCA). This 2010 CCA observed that a payment to a state agency or charitable organization in return for a tax credit might be characterized as either a charitable contribution deductible under section 170 or a payment of state tax possibly deductible under section 164. The 2010 CCA advised that taxpayers may take a deduction under section 170 for the full amount of a contribution made in return for a state tax credit, without subtracting the value of the credit received in return. The analysis in the 2010 CCA assumed that after the taxpayer applied the state or local tax credit to reduce the taxpayer's state or local tax liability, the taxpayer would receive a smaller deduction for state and local taxes under section 164. The 2010 CCA cautioned, however, that ''there may be unusual circumstances in which it would be appropriate to recharacterize a payment of cash or property that was, in form, a charitable contribution as, in substance, a satisfaction of tax liability.''

In addition to the CCAs, IRS Chief Counsel has taken the position in the U.S. Tax Court that the amount of a state or local tax credit that reduces a tax liability is not an accession to wealth under section 61 or an amount realized for purposes of section 1001, and the Tax Court has accepted this view. *See, e.g., Maines* v. *Commissioner,* 144 T.C. 123, 134 (2015) (holding that the non-refundable portion of a state income tax credit, the amount of which was based on previously-paid property taxes, reduced the current year's tax liability and is not taxable or treated as an item of income); *Tempel* v. *Commissioner,* 136 T.C. 341, 351–354 (2011) (holding that state income tax credits received by a donor for the transfer of a conservation easement and sold by the donor were capital assets, but that the donor had no adjusted basis in the credits), *aff'd sub nom. Esgar Corp.* v. *Commissioner,* 744 F.3d 648 (10th Cir. 2014). However, the application of sections 61 and 1001 to state or local tax credits presents different issues than the application of section 170, and none of these cases addressed whether a taxpayer's expectation or receipt of a state or local tax credit may reduce a taxpayer's charitable contribution deduction under section 170. Nor has the Treasury Department or the IRS ever addressed this question in published guidance.

III. New Limitation in Section 164

At the time the 2010 CCA was issued, section 164 generally allowed an itemized deduction—unlimited in amount—for the payment of state and local taxes. Accordingly, the question of how to characterize transfers pursuant to state tax credit programs had little practical consequence from a federal income tax perspective because, unless the taxpayer was subject to the alternative minimum tax (AMT) under section 55, a deduction was likely to be available under either section 164 or section 170. Permitting a charitable contribution deduction for a transfer made in exchange for a state or local tax credit generally had no effect on federal income tax liability because any increased deduction under section 170 would be offset by a decreased deduction under section 164.

However, as a result of the new limit on the deductibility of state and local taxes under section 164(b)(6) (as added by the Act), treating a transfer pursuant to a state or local tax credit program as a charitable contribution for federal income tax purposes may reduce a taxpayer's federal income tax liability. When a charitable contribution is made in return for a state or local tax credit and the taxpayer has pre-credit state and local tax liabilities in excess of the $10,000 limitation in section 164(b)(6), a charitable contribution deduction under section 170 would no longer be offset by a reduction in the taxpayer's state and local tax deduction under section 164. Thus, as a consequence, state and local tax credit programs now give taxpayers a potential means to circumvent the $10,000 limitation in section 164(b)(6) by substituting an increased charitable contribution deduction for a disallowed state and local tax deduction. State legislatures are also now considering or have adopted proposals to enact new state and local tax credit programs with the aim of enabling taxpayers to characterize their transfers as fully deductible charitable contributions for federal income tax purposes, while using the same transfers to satisfy or offset their state or local tax liabilities.

In light of the tax consequences of section 164(b)(6) and the resulting increased interest in preexisting and new state tax credit programs, the Treasury Department and the IRS determined that it was appropriate to review the question of whether amounts paid or property transferred in exchange for state or local tax credits are fully deductible as charitable contributions under section 170.

IV. Notice 2018–54

Pursuant to this review, in Notice 2018–54, 2018–24 I.R.B. 750, the Treasury Department and the IRS announced on June 11, 2018, their intention to propose regulations addressing the federal income tax treatment of payments made by taxpayers for which the taxpayers receive a credit against their state and local taxes. The notice stated that federal tax law controls the proper characterization of payments for federal income tax purposes and that proposed regulations would assist taxpayers in understanding the relationship between the federal charitable contribution deduction and the new limitation on the

deduction for state and local tax payments.

Although Notice 2018–54 was issued in response to state legislation proposed after the enactment of the limitation on state and local tax deductions under section 164(b)(6), the rules in these proposed regulations are based on longstanding federal tax law principles, which apply equally to taxpayers regardless of whether they are participating in a new state and local tax credit program or a preexisting one. Accordingly, the proposed regulations, and the analysis underlying the proposed regulations, are intended to apply to transfers pursuant to state and local tax credit programs established under the recent state legislation as well as to transfers pursuant to state and local tax credit programs that were in existence before the enactment of section 164(b)(6).

V. Proposed Regulations

After reviewing the issue, and in light of the longstanding principles of the cases and tax regulations discussed above, the Treasury Department and the IRS believe that when a taxpayer receives or expects to receive a state or local tax credit in return for a payment or transfer to an entity listed in section 170(c), the receipt of this tax benefit constitutes a *quid pro quo* that may preclude a full deduction under section 170(a). In applying section 170 and the *quid pro quo* doctrine, the Treasury Department and the IRS do not believe it is appropriate to categorically exempt state or local tax benefits from the normal rules that apply to other benefits received by a taxpayer in exchange for a contribution. Thus, the Treasury Department and the IRS believe that the amount otherwise deductible as a charitable contribution must generally be reduced by the amount of the state or local tax credit received or expected to be received, just as it is reduced for many other benefits. Accordingly, the Treasury Department and the IRS propose regulations proposing to amend existing regulations under section 170 to clarify this general requirement, to provide for a *de minimis* exception from the general rule, and to make other conforming amendments.

Compelling policy considerations reinforce the interpretation and application of section 170 in this context. Disregarding the value of all state tax benefits received or expected to be received in return for charitable contributions would precipitate significant revenue losses that would undermine and be inconsistent with the limitation on the deduction for state and local taxes adopted by Congress in section 164(b)(6).[1] Such an approach would incentivize and enable taxpayers to characterize payments as fully deductible charitable contributions for federal income tax purposes, while using the same payments to satisfy or offset their state or local tax liabilities. Disregarding the tax benefit would also undermine the intent of Congress in enacting section 170, that is, to provide a deduction for taxpayers' gratuitous payments to qualifying entities, not for transfers that result in economic returns. The Treasury Department and the IRS believe that appropriate application of the *quid pro quo* doctrine to substantial state or local tax benefits is consistent with the Code and sound tax administration.

Explanation of Provisions

The proposed regulations generally provide that if a taxpayer makes a payment or transfers property to or for the use of an entity listed in section 170(c), and the taxpayer receives or expects to receive a state or local tax credit in return for such payment, the tax credit constitutes a return benefit, or *quid pro quo,* to the taxpayer and reduces the charitable contribution deduction.

In addition to credits, the proposed regulations also address state or local tax deductions claimed in connection with a taxpayer's payment or transfer. Although deductions could be considered *quid pro quo* benefits in the same manner as credits, the Treasury Department and the IRS believe that sound policy considerations as well as considerations of efficient tax administration warrant making an exception to *quid pro quo* principles in the case of dollar-for-dollar state or local tax deductions. Because the benefit of a dollar-for-dollar deduction is limited to the taxpayer's state and local marginal rate, the risk of deductions being used to circumvent section 164(b)(6) is comparatively low. In addition, if state and local tax deductions for charitable contributions were treated as *quid pro quo* benefits, it would make the accurate calculation of federal taxes and state and local taxes difficult for both taxpayers and the IRS. For example, the value of a deduction could vary based on the taxpayer's marginal or effective state and local tax rates, making for more complex computations and adding to administrative and taxpayer burden. The proposed regulations thus allow taxpayers to disregard dollar-for-dollar state or local tax deductions. However, the proposed regulations state that, if the taxpayer receives or expects to receive a state or local tax deduction that exceeds the amount of the taxpayer's payment or the fair market value of the property transferred, the taxpayer's charitable contribution deduction must be reduced. The Treasury Department and the IRS request comments on how to determine the amount of this reduction.

To provide consistent treatment for state or local tax deductions and state or local tax credits that provide a benefit that is generally equivalent to a deduction, the proposed regulations include a *de minimis* exception under which a taxpayer may disregard a state or local tax credit if such credit does not exceed 15 percent of the taxpayer's payment or 15 percent of the fair market value of the property transferred by the taxpayer. The *de minimis* exception reflects that the combined value of a state and local tax deduction, that is the combined top marginal state and local tax rate, currently does not exceed 15 percent. Accordingly, under the proposed regulations, a state or local tax credit that does not exceed 15 percent does not reduce the taxpayer's federal deduction for a charitable contribution. The Treasury Department and the IRS request comments on this proposed exception.

In drafting the proposed regulations, the Treasury Department and the IRS also considered whether a taxpayer may decline the receipt or anticipated receipt of a state or local tax credit by taking some affirmative action at the time of the taxpayer's payment or transfer. *See* Rev. Rul. 67–246, 1967–2 C.B. 104 (allowing a full charitable contribution deduction if the taxpayer does not accept or keep any indicia of a return benefit). Because procedures for declining the state or local tax credit would depend on the procedures of each state and locality in administering the tax credits, the Treasury Department and the IRS request comments regarding a rule that would allow taxpayers to decline state or local tax credits and receive full deductions for charitable contributions under section 170.

Trusts and decedents' estates may claim an income tax deduction for

[1] The Joint Committee on Taxation estimated that the limitation on state and local tax deductions along with certain other reforms of itemized deductions would raise $668 billion over ten years. A substantial amount of this revenue would be lost if state tax benefits received in exchange for charitable contributions were ignored in determining the charitable contribution deduction. This estimate is not a revenue estimate of the proposed regulations, in part because it includes other reforms of itemized deductions but does not reflect certain other provisions of the Act. *See* Joint Committee on Taxation, ''Estimated Budget Effects of the Conference Agreement for H.R. 1, The 'Tax Cuts and Jobs Act,' '' JCX–67–17, December 18, 2017 available at *https://www.jct.gov/publications.html?func=startdown&id=5053.*

charitable contributions under section 642(c). For the same reasons provided above, the proposed regulations amend § 1.642(c)–3 to provide that the proposed rules under § 1.170A–1(h)(3) apply to payments made by a trust or decedent's estate in determining its charitable contribution deduction under section 642(c).

Proposed Applicability Date

The amendments to these regulations are proposed to apply to contributions after August 27, 2018.

Special Analyses

Executive Orders 12866 and 13563 direct agencies to assess 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. These proposed regulations have been designated as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations. OMB has determined that the proposed regulations are subject to review under section 1(b) of the Memorandum of Agreement. These proposed regulations have been reviewed by OMB. These proposed regulations are anticipated to be regulatory actions under E.O. 13771. The analysis below can provide further detail on this designation.

I. Need for Regulations

These proposed regulations provide guidance on the deductibility of charitable contributions when a taxpayer receives or expects to receive a corresponding state or local tax credit. These proposed regulations are intended to clarify the relationship between the federal charitable contribution deduction and the recently-enacted statutory limitation on deductions for state and local taxes paid (the ''SALT cap'') and to make the federal tax system more neutral with respect to taxpayers' decisions regarding donations. Compelling policy considerations reinforce the interpretation and application of section 170 in this context. Disregarding the value of all state tax benefits received or expected to be received in return for charitable contributions would precipitate revenue losses that would undermine and be inconsistent with the limitation on the deduction for state and local taxes adopted by Congress in section 164(b)(6).

Pursuant to section 6(a)(3)(B) of Executive Order 12866, the following qualitative analysis provides further details regarding the anticipated impact of the proposed regulations. After identifying a baseline in Part II, this analysis provides illustrative scenarios in Part III. Part III.A describes the tax effects of the contributions prior to enactment of the SALT cap in the Act. Part III.B provides examples comparing the enactment of the SALT cap but absent the proposed rule (the baseline) to the proposed rule. Finally, Part IV provides a qualitative assessment of the potential costs and benefits of the proposed rule compared to the baseline.

II. Baseline

Prior to this proposed rule, there was no authoritative regulatory guidance on the treatment of state or local tax credits arising from charitable contributions to entities listed in section 170(c), and there was no guidance aside from Notice 2018–54 addressing the interaction between section 170 and the newly enacted SALT cap. As a result, there was a degree of taxpayer uncertainty as to whether state and local tax credits are a return benefit that reduces a taxpayer's charitable contribution deduction. For informational and analytical purposes, however, this analysis assumes as a baseline that state and local tax credits are generally not treated as a return benefit or consideration and therefore do not reduce the taxpayer's charitable contribution deduction under section 170(a).

III. Illustrative Scenarios

For the following illustrative scenarios, assume the following facts: Charitable organizations A and B are entities listed in section 170(c) and provide similar public goods. Contributions to charity A are eligible for a dollar-for-dollar state tax credit. Contributions to charity B are ineligible for this credit but are deductible from state taxable income. A taxpayer itemizes deductions, and these itemized deductions in aggregate are at least $1,000 more than the standard deduction. The taxpayer has the choice to contribute $1,000 to charity A, and this $1,000 contribution generates a state tax credit of $1,000,[2] that is, the tax credit is dollar-for-dollar but does not otherwise figure into the calculation of the taxpayer's state tax liability. The taxpayer has more than $1,000 of state tax liability, so that the taxpayer's state tax liability is reduced by the entire $1,000 of the state tax credit. Finally, if the taxpayer makes the $1,000 contribution that generates a state tax credit of $1,000, the taxpayer reduces by $1,000 the withholdings or other payments of state taxes during the taxable year in question. The state taxes paid by the taxpayer are therefore reduced by the full amount of the state tax credit in the same taxable year as the contribution is made.[3] Further assume the taxpayer is in the 24 percent federal tax bracket, itemizes federal tax deductions, and has a state tax rate of 5 percent. If the taxpayer is subject to the AMT, assume an AMT marginal tax rate of 26 percent.

The Act and proposed regulations alter the incentives taxpayers face about whether and how much to give to organizations that receive charitable contributions as well as to which organizations. This is illustrated in the following scenarios, which are also summarized in Table 1 (below).

A. Prior Law: Section 170 Charitable Contributions Prior to the Act

The tax effects of contributions prior to enactment of the Act are illustrated in the columns labeled ''Prior Law'' in Table 1.

1. Taxpayer Not Subject to AMT

Prior to enactment of the Act, if the taxpayer made a $1,000 contribution to charity A that generated a state tax credit of $1,000, the deduction for charitable contributions under section 170(a) increased by $1,000, and the deduction for state and local taxes paid under section 164 decreased by $1,000. The taxpayer's itemized deductions, taxable income, and federal tax liability were unchanged from what they would have been in the absence of the contribution.[4] The taxpayer's state tax liability decreased by $1,000 because of the state tax credit. The combined federal and state tax benefits of the

[2] Note that this analysis only addresses state tax credits offering a 100% benefit. The results may differ for credits offering a lower benefit, but the comparative results of the below illustrative examples would be similar.

[3] The results of the examples are generally unchanged if the taxpayer instead receives the credit as a refund of state taxes paid that were deducted from federal taxable income, as such refund would be includible in federal taxable income in the following year.

[4] This assumes the taxpayer was not subject to limitations such as the overall limitation on itemized deductions under section 68 or subject to a percentage limitation for the deduction under section 170, an assumption that is maintained throughout the succeeding discussion.

$1,000 contribution were therefore $1,000, and the cost to the taxpayer and to the federal government of making the contribution was $0. This is shown in column A under Prior Law for Example 1 in Table 1 and replicated in the same column for Example 2.

2. Taxpayer Subject to AMT

If the taxpayer were subject to the AMT under section 55, however, there was a net benefit to the taxpayer from contributions to charity A, which provided state tax credits. State and local taxes paid are not deductible expenses in determining taxable income under the AMT, but charitable contributions are deductible expenses in determining taxable income under the AMT. If the taxpayer contributed $1,000, taxable income under the AMT was reduced by $1,000 due to the charitable contribution deduction under section 170, but there was no corresponding reduction in the deduction for state and local taxes. Under an AMT marginal tax rate of 26 percent, the federal tax benefit of this $1,000 contribution would be $260. Because of the dollar-for-dollar state tax credit, the taxpayer received a combined federal and state tax benefit of $1,260 for a $1,000 contribution, a net benefit of $260. This is shown in column A under Prior Law for Example 3 in Table 1.

3. Comparison of Contributions to Different Organizations Under Prior Law

In combination, state and federal tax laws generally provide a greater incentive to contribute to organizations eligible for state tax credits (charity A) than to other organizations (charity B). The effect of a contribution to charity A are described above.

Prior to enactment of the Act, for a taxpayer not subject to the AMT, a $1,000 contribution to charity B yielded a smaller combined federal and state tax benefit than to charity A. The state tax benefit was $50 ($1,000 times the 5 percent state tax rate). The taxpayer's itemized deductions at the federal level increased by $950 (the $1,000 charitable contribution deduction less than $50 reduction in state taxes paid). The federal tax benefit of this increase was $228 ($950 times the 24 percent federal tax rate), resulting in a combined federal and state tax benefit of $278. The net cost to the taxpayer of the $1,000 contribution was $722. This is shown in column B under Prior Law for Example 1 in Table 1 and replicated in the same column for Example 2.

For a taxpayer subject to the AMT, a $1,000 contribution to charity B yielded a combined federal and state benefit of $310—the $1,000 contribution multiplied by the taxpayer's marginal tax rate under the AMT of 26 percent, or $260, plus the value of the deduction from state tax, or $50 ($1,000 times the 5 percent state tax rate). The net cost to the taxpayer of the $1,000 contribution was $690. This is shown in column B under Prior Law for Example 3 in Table 1.

Contributing to either charity A or charity B reduced the taxpayer's combined federal and state tax liability, but the existence of the state tax credit for contributions to charity A made contributions to that organization more attractive. This is seen by comparing the Total Tax Benefit in column A under Prior Law to the corresponding value in column B for each of the three examples. For taxpayers not subject to the AMT, contributions to charity A yielded a combined federal and state tax benefit of $1,000, compared to a combined federal and state tax benefit of $278 for a contribution to charity B. The AMT increased the disparity for contributions to charity A versus charity B, resulting in a combined federal and state tax benefit of $1,260 for a contribution to charity A versus $310 for a contribution to charity B.

B. Examples Under Baseline (Current Law and Practices Under the Act) and Proposed Rule

The enactment of the SALT cap in the Act has, in limited circumstances, altered the federal tax effects of charitable contributions as described in the following examples. These are illustrated in the columns labeled ''Baseline'' and ''Proposed Rule'' in Table 1.

1. Example 1: Taxpayer Is Above the SALT Cap and Not Subject to the AMT

a. Baseline

If a taxpayer that has a state tax liability of more than $1,000 above the SALT cap and is not subject to the AMT makes a $1,000 contribution to charity A, the deduction for charitable contributions under section 170(a) increases by $1,000, but the deduction for state and local taxes paid under section 164 is unchanged. Consequently, itemized deductions increase by $1,000, and taxable income decreases by $1,000. If the taxpayer is in the 24 percent bracket, federal liability will decrease by $240, and state tax liability will decrease by the $1,000 state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,240, and the taxpayer receives a $240 net benefit while the federal government has a loss of $240. This is shown in column A under Baseline for Example 1 in Table 1.

b. Proposed rule

If the same taxpayer makes the $1,000 contribution to charity A under the proposed rule, the entire $1,000 deduction is not deductible under section 170(a), and the deduction for state and local taxes paid under section 164 is unchanged due to the SALT cap. The taxpayer's itemized deductions, taxable income, and federal tax liability are unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, or $240 less than under the baseline. This is shown by comparing the Total Tax Benefit in column A under Proposed Rule with the corresponding value in column A under Baseline for Example 1 in Table 1. However, the benefit of the contribution for this taxpayer is the same as the taxpayer faced prior to enactment of the Act. This is shown by comparing the Total Tax Benefit under column A under Proposed Rule with the corresponding value in column A under Prior Law for Example 1 in Table 1.

c. Comparison of Contributions to Different Organizations and Proposed Rule

Under the baseline and the proposed rule, for a taxpayer with state and local taxes paid over the SALT cap, the value of a contribution to charity B, that is a contribution that results in a one-for-one state income tax deduction and not a state tax credit, is slightly higher than it was pre-Act. This increase is because the state deduction does not reduce the federal deduction for state and local taxes for a taxpayer above the SALT cap. As shown in the Total Tax Benefit row under the B columns for Example 1, under the baseline and the proposed rule, the value of a $1,000 contribution to charity B is $290—the charitable contribution deduction from federal tax ($1,000 times the 24 percent federal tax rate, or $240), plus the value of the deduction from state tax ($1,000 times the 5 percent state tax rate, or $50)—compared to $278 for contributions under prior law (described above). By comparison, as shown in the Total Tax Benefit row under the A columns for Example 1, a contribution to charity A, eligible for a state tax credit, yields a $1,240 tax benefit under the baseline and a $1,000 benefit under the proposed rule.

2. Example 2: Taxpayer Is Below the SALT Cap and Not Subject to the AMT

a. Baseline

If a taxpayer that has state and local taxes paid below the SALT cap and is not subject to the AMT makes the $1,000 contribution to charity A, the deduction for charitable contributions under section 170(a) increases by $1,000, and the deduction for state and local taxes paid under section 164 decreases by $1,000. The taxpayer's itemized deductions, taxable income, and federal tax liability are unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, and the cost to the taxpayer and to the federal government of making the contribution was $0. This situation is identical to prior law or what taxpayers faced prior to enactment of the Act. This is shown is column A under Baseline and Prior Law for Example 2 in Table 1.

b. Proposed Rule

If the same taxpayer makes the $1,000 contribution to charity A under the proposed rule, the entire $1,000 contribution is not deductible under section 170(a), but the deduction for state and local taxes paid under section 164 still decreases by $1,000 because of the $1,000 state tax credit. If the taxpayer is in the 24 percent bracket, the federal tax liability will increase by $240. The taxpayer's state tax liability decreases by the $1,000 state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $760, or $240 less than the baseline. This is shown by comparing the Total Tax Benefit in column A under Proposed Rule with the corresponding value in column A under Baseline for Example 2. In this case, the proposed rule has the effect of increasing the taxpayer's federal taxable income compared to the baseline if the taxpayer makes a contribution to charity A.

c. Comparison of Contributions to Different Organizations, Under Prior Law, Baseline, and Proposed Rule

Under prior law, and both the baseline scenario and the proposed rule, the tax benefit of charitable contributions to charity B, which are not eligible for a state tax credit but are deductible from both federal and state taxable income, is unchanged from prior law for taxpayers below the SALT cap. Thus, in this example, the benefit of making a contribution to charity B remains $278, as described above for contributions under prior law. This is shown in the Total Tax Benefit row under the B columns for Example 2. By comparison, as shown in the Total Tax Benefit row under the A columns for Example 2, a $1,000 contribution to charity A, eligible for a state tax credit, yields a $1,000 tax benefit under the baseline and a $760 benefit under the proposed rule.

3. Example 3: Taxpayer is Subject to the AMT [5]

a. Baseline

If a taxpayer subject to the AMT makes a $1,000 contribution to charity A, the contribution reduces the taxpayer's taxable income under the AMT by $1,000. Under an AMT marginal tax rate of 26 percent, the federal tax benefit of this $1,000 contribution is $260. Because of the dollar-for-dollar state tax credit, the taxpayer would receive a combined federal and state tax benefit of $1,260 for a $1,000 contribution, or a $260 net benefit. This result is identical to the result under prior law (prior to enactment of the Act). This is shown in the A columns under Baseline and Prior Law for Example 3 in Table 1.

b. Proposed Rule

If the same taxpayer makes the $1,000 contribution to charity A under the proposed rule, the entire $1,000 is not deductible under section 170(a). Therefore, the taxpayer's taxable income and federal tax liability under the AMT would be unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, or $260 less than under the baseline and under the law prior to enactment of the Act. This is shown by comparing the A columns of Example 3 in Table 1. However, under the proposed rule, taxpayers subject to the AMT are in the same position as taxpayers with state and local taxes paid above the SALT cap who are not subject to the AMT. This is shown by comparing the Total Tax Benefit amount under column A for the Proposed Rule for Example 3 to that for Example 1.

[5] The Act increased the amount of income exempt from AMT. We estimate that only about 150,000 taxpayers will be subject to the AMT under the Act, compared to more than 4 million under prior law.

c. Comparison of Contributions to Different Organizations, Under Prior Law, Baseline and Proposed Rule

Under the baseline and the proposed rule, the treatment of charitable contributions that are deductible from both federal and state taxable income is unchanged from prior law for taxpayers subject to the AMT. This is shown in the B columns for Example 3 in Table 1. In this example, the benefit of making a contribution to charity B remains $310, as described above for contributions under prior law. By comparison, a contribution to a charity A, eligible for a state tax credit, yields a $1,260 tax benefit under the baseline and a $1,000 benefit under the proposed rule. This is shown in column A under Baseline and Proposed Rule for Example 3 in Table 1.

IV. Expected Benefits and Costs

A. Benefits

These proposed regulations likely reduce economically inefficient choices motivated by the potential tax benefits described above if these proposed regulations were not promulgated. Under the prior law and baseline scenarios, state and local governments have an incentive to fund governmental activities through independent entities that are eligible to receive deductible contributions and to establish tax credits. This incentive is particularly strong under a SALT cap scenario where state and local governments may do so solely to enable some taxpayers to circumvent the SALT cap. These proposed regulations substantially diminish this incentive to engage in socially wasteful tax-avoidance behavior. As a result, it is expected that fewer such credit programs would be established in the future under the proposed regulations than under the baseline.

To the extent this result occurs, the Treasury Department and IRS estimate that the proposed regulations would reduce overall complexity and paperwork burden for states and for taxpayers who would otherwise engage in charitable contributions solely for the purpose of reducing their state and local tax liability. In addition to reducing paperwork burden, the Treasury Department and IRS anticipate that the proposed regulations will also spare some taxpayers compliance costs associated with complex tax planning designed to avoid the SALT cap.

In addition, these proposed regulations are expected to make the federal tax system more neutral to taxpayers' decisions regarding donations. Under the baseline scenarios,

the combined federal and state tax benefits favor contributions to organizations which give rise to a state tax credit for taxpayers, particularly for taxpayers above the SALT cap. Under the proposed regulations, this economic distortion is expected to be reduced. The Treasury Department and the IRS request comments from the public on the potential extent of this expected reduction in economic distortion.

Finally, these proposed regulations provide more certainty to taxpayers by clarifying the rules governing the amount that they can claim as a charitable contribution deduction when they receive a state tax credit or a dollar-for-dollar state tax deduction in exchange for the contribution.

B. Costs

The proposed regulations may result in some increase in compliance costs for taxpayers who make contributions that generate state tax credits. Under the baseline, for purposes of the charitable contribution deduction under section 170(a), taxpayers did not need to address state tax credits received for purposes of claiming a charitable contribution; however, they would know the amount of credits received as part of the filing process for state returns. In contrast, under the proposed regulations, taxpayers making a contribution to an organization listed in section 170(c) will need to determine the amount of any state tax credits they will receive or expect to receive in order to reduce their charitable contribution deduction under section 170(a). This additional step will generate some additional compliance costs.

The compliance burden for recipient organizations that directly issue tax credits may increase under the proposed regulations. In order to take a charitable contribution deduction of $250 or more, a taxpayer must have a contemporaneous written acknowledgment (CWA) from the donee entity, usually provided in the form of a letter. The CWA includes the amount received by the entity or a description of property received. The CWA must also disclose whether the donee provided any goods or services in consideration for the contribution and a description and good faith estimate of the value of those goods or services provided. State and local tax credits are not generally provided by the donee entity, but there may be situations in which the entity would be providing the credit and would need to include it in the CWA provided to the donor. The Treasury Department and the IRS request comments on whether additional guidance is needed on substantiation and reporting requirements for donors and donees making or receiving payments or transfers of property in return for state and local tax credits and the extent to which entities do provide tax credits under certain circumstances.

The Treasury Department and the IRS request comments on other potential compliance savings, compliance costs, costs related to increased tax planning and other avoidance behavior, or any effects on charitable contribution decisions that may occur as a result of these proposed regulations. In particular, the Treasury Department and the IRS request comments as to how the proposed regulations might alter incentives regarding contributions to state and local tax credit programs.

Based on an analysis of confidential taxpayer return data and forecasts using that data, the Treasury Department and the IRS note that these proposed regulations will leave charitable giving incentives entirely unchanged for the vast majority of taxpayers. After passage of the Act, which significantly increased the standard deduction, it is estimated that ninety percent of taxpayers will not claim itemized deductions of any kind. Those taxpayers are entirely unaffected by these proposed regulations. It is estimated that approximately five percent of taxpayers will itemize and will have state and local income tax deductions above the SALT cap; these taxpayers will receive the same federal tax benefits under the proposed regulations as they received prior to the Act. See Example 1 above. It is estimated that approximately five percent of taxpayers will itemize but will not have state and local income tax deductions above the SALT cap. The federal tax benefits available to this fraction of taxpayers could be affected by the proposed regulations only if they contribute to programs that entitle them to state tax credits of greater than 15 percent. See Example 2 above. The Treasury Department and the IRS believe that most taxpayers in this third category have never used any state tax credit programs affected by the proposed regulations, and that the proposed regulations will have at most a highly limited, marginal effect on taxpayer decisions to donate to tax credit programs that pre-date TCJA, including educational scholarship programs.[6] The Treasury Department and the IRS request comments on this important consideration and any potential unintended consequences of the proposed regulations not addressed here.

TABLE 1—TAX TREATMENT OF $1,000 CONTRIBUTION TO (A) ORGANIZATION THAT GIVES RISE TO $1,000 STATE TAX CREDIT AND (B) ORGANIZATION FOR WHICH CONTRIBUTION IS DEDUCTIBLE AT THE STATE LEVEL

Change in	Prior law		Baseline		Proposed rule	
	A	B	A	B	A	B
Example 1: Taxpayer Above the SALT Cap, Not Subject to the AMT						
State Income Tax Liability	−1,000	−50	−1,000	−50	−1,000	−50
Federal Income Tax:						
Charitable Contribution Deduction	1,000	1,000	1,000	1,000	0	1,000
Deduction for State and Local Taxes	−1,000	−50	0	0	0	0
Itemized Deductions	0	950	1,000	1,000	0	1,000
Taxable Income	0	−950	−1,000	−1,000	0	−1,000
Federal Tax Liability	0	−228	−240	−240	0	−240
Total Tax Benefit (Federal + State)	1,000	278	1,240	290	1,000	290
Net Cost to Taxpayer of $1,000 Contribution	0	722	−240	710	0	710

[6] The Treasury Department and the IRS are aware of potential concerns about educational scholarship programs in particular. Based on projections for 2018, most taxpayers in the third category described above do not reside in states that offer educational scholarship tax credit programs affected by the proposed regulations, and the vast majority of them have never used such programs.

TABLE 1—TAX TREATMENT OF $1,000 CONTRIBUTION TO (A) ORGANIZATION THAT GIVES RISE TO $1,000 STATE TAX CREDIT AND (B) ORGANIZATION FOR WHICH CONTRIBUTION IS DEDUCTIBLE AT THE STATE LEVEL—Continued

Change in	Prior law		Baseline		Proposed rule	
	A	B	A	B	A	B
Example 2: Taxpayer Below the SALT Cap, Not Subject to the AMT						
State Income Tax Liability	−1,000	−50	−1,000	−50	−1,000	−50
Federal Income Tax:						
Charitable Contribution Deduction	1,000	1,000	1,000	1,000	0	1,000
Deduction for State and Local Taxes	−1,000	−50	−1,000	−50	−1,000	−50
Itemized Deductions	0	950	0	950	−1,000	950
Taxable Income	0	−950	0	−950	1,000	−950
Federal Tax Liability	0	−228	0	−228	240	−228
Total Tax Benefit (Federal + State)	1,000	278	1,000	278	760	278
Net Cost to Taxpayer of $1,000 Contribution	0	722	0	722	240	722
Example 3: Taxpayer Subject to the AMT						
State Income Tax Liability	−1,000	−50	−1,000	−50	−1,000	−50
Federal Income Tax:						
Alternative minimum taxable Income	−1,000	−1,000	−1,000	−1,000	0	−1,000
Federal Tax Liability	−260	−260	−260	−260	0	−260
Total Tax Benefit (Federal + State)	1,260	310	1,260	310	1,000	310
Net Cost to Taxpayer of $1,000 Contribution	−260	690	−260	690	0	690

Assumptions: The taxpayer itemizes deductions and has more than $1,000 of state tax liability. Under prior law, the taxpayer is not subject to the overall limitation on itemized deductions under section 68. The taxpayer faces a 24 percent marginal rate under the federal income tax. If the taxpayer is subject to the AMT, the taxpayer faces a 26 percent marginal rate. A $1,000 contribution to charitable organization A generates a $1,000 state tax credit. A $1,000 contribution to charitable organization B is ineligible for a state tax credit but is deductible under the state's income tax. The taxpayer faces a 5 percent marginal rate under the state's income tax. The baseline assumes continuation of the IRS administrative position that state and local tax credits are not reflected as a return benefit or consideration and therefore do not reduce the taxpayer's charitable contribution deduction under section 170(a). Total Tax Benefit refers to the absolute value of the reduction of the taxpayer's combined federal and state tax liability.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply because the proposed regulations primarily affect individuals and do not impose costs, including a collection of information, on small entities. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f), this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before the regulations proposed herein are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations including: (1) Whether there should be recognition of gain or loss when property is transferred in consideration for state or local tax credits that are not *de minimis;* (2) determination of the basis of a transferable tax credit that a taxpayer sells or exchanges; (3) procedures by which a taxpayer may establish that the taxpayer declined receipt of the state or local tax credit; (4) substantiation and reporting requirements for donors and donees making or receiving payments or transfers of property in return for state and local tax credits; (5) for a taxpayer that receives or expects to receive a state or local tax deduction in an amount that exceeds the amount of the taxpayer's payment or the fair market value of the property transferred to an entity listed in section 170(c), suggestions for calculating the reduction to the charitable contribution deduction; and (6) whether and in what manner the regulations should address other state or local tax benefits, such as tax exclusions, that may be provided as consideration for certain payments or transfers to an entity listed in section 170(c). Finally, the Treasury Department and the IRS request comments on alternative regulatory approaches that would effectively prevent circumvention of the new statutory limitation on state and local tax deductions, consistent with applicable law.

All comments submitted will be made available at *www.regulations.gov* or upon request. A public hearing has been scheduled for November 5, 2018, beginning at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by October 11, 2018. Submit a signed paper or electronic copy of the outline as prescribed in this preamble under the **ADDRESSES** heading. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these proposed regulations are personnel from the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS

and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.170A–1 is amended by redesignating paragraphs (h)(3) through (h)(5) as paragraphs (h)(4) through (h)(6), and adding a new paragraph (h)(3) to read as follows:

§ 1.170A–1 Charitable, etc., contributions and gifts; allowance of deduction.

* * * * *

(h) * * *

(3) *Payments resulting in state or local tax benefits.* (i) *State or local tax credits.* Except as provided in paragraph (h)(3)(v) of this section, if a taxpayer makes a payment or transfers property to or for the use of an entity listed in section 170(c), the amount of the taxpayer's charitable contribution deduction under section 170(a) is reduced by the amount of any state or local tax credit that the taxpayer receives or expects to receive in consideration for the taxpayer's payment or transfer.

(ii) *State or local tax deductions.* (A) *In general.* If a taxpayer makes a payment or transfers property to or for the use of an entity listed in section 170(c), and the taxpayer receives or expects to receive a state or local tax deduction that does not exceed the amount of the taxpayer's payment or the fair market value of the property transferred by the taxpayer to such entity, the taxpayer is not required to reduce its charitable contribution deduction under section 170(a) on account of such state or local tax deduction.

(B) *Excess state or local tax deductions.* If the taxpayer receives or expects to receive a state or local tax deduction that exceeds the amount of the taxpayer's payment or the fair market value of the property transferred, the taxpayer's charitable contribution deduction under section 170 is reduced.

(iii) *In consideration for.* For purposes of paragraph (h)(3)(i) of this section, the term *in consideration for* shall have the meaning set forth in § 1.170A–13(f)(6), except that the state or local tax credit need not be provided by the donee organization.

(iv) *Amount of reduction.* For purposes of paragraph (h)(3)(i) of this section, the amount of any state or local tax credit is the maximum credit allowable that corresponds to the amount of the taxpayer's payment or transfer to the entity listed in section 170(c).

(v) *State or local tax.* For purposes of paragraph (h)(3) of this section, the term *state or local tax* means a tax imposed by a State, a possession of the United States, or by a political subdivision of any of the foregoing, or by the District of Columbia.

(vi) *Exception.* Paragraph (h)(3)(i) of this section shall not apply to any payment or transfer of property if the amount of the state or local tax credit received or expected to be received by the taxpayer does not exceed 15 percent of the taxpayer's payment, or 15 percent of the fair market value of the property transferred by the taxpayer.

(vii) *Examples.* The following examples illustrate the provisions of this paragraph (h)(3). The examples in paragraph (h)(6) of this section are not illustrative for purposes of this paragraph (h)(3).

Example 1. A, an individual, makes a payment of $1,000 to X, an entity listed in section 170(c). In exchange for the payment, A receives or expects to receive a state tax credit of 70% of the amount of A's payment to X. Under paragraph (h)(3)(i) of this section, A's charitable contribution deduction is reduced by $700 (70% × $1,000). This reduction occurs regardless of whether A is able to claim the state tax credit in that year. Thus, A's charitable contribution deduction for the $1,000 payment to X may not exceed $300.

Example 2. B, an individual, transfers a painting to Y, an entity listed in section 170(c). At the time of the transfer, the painting has a fair market value of $100,000. In exchange for the painting, B receives or expects to receive a state tax credit equal to 10% of the fair market value of the painting. Under paragraph (h)(3)(vi) of this section, B is not required to apply the general rule of paragraph (h)(3)(i) of this section because the amount of the tax credit received or expected to be received by B does not exceed 15% of the fair market value of the property transferred to Y. Accordingly, the amount of B's charitable contribution deduction for the transfer of the painting is not reduced under paragraph (h)(3)(i) of this section.

Example 3. C, an individual, makes a payment of $1,000 to Z, an entity listed in section 170(c). In exchange for the payment, under state M law, C is entitled to receive a state tax deduction equal to the amount paid by C to Z. Under paragraph (h)(3)(ii)(A) of this section, C is not required to reduce its charitable contribution deduction under section 170(a) on account of the state tax deduction.

(viii) *Effective/applicability date.* This paragraph (h)(3) applies to amounts paid or property transferred by a taxpayer after August 27, 2018.

* * * * *

§ 1.170A–13 [Amended]

■ **Par. 3.** Section 1.170A–13(f)(7) is amended by removing the cross-reference ''§ 1.170A–1(h)(4)'' and adding in its place ''§ 1.170A–1(h)(5)''.

■ **Par. 4.** Section 1.642(c)–3 is amended by adding paragraph (g) to read as follows:

§ 1.642(c)–3 Adjustments and other special rules for determining unlimited charitable contributions deduction.

* * * * *

(g) *Payments resulting in state or local tax benefits*—(1) *In general.* If the trust or decedent's estate makes a payment of gross income for a purpose specified in section 170(c), and the trust or decedent's estate receives or expects to receive a state or local tax benefit in consideration for such payment, § 1.170A–1(h)(3) applies in determining the charitable contribution deduction under section 642(c).

(2) *Effective/applicability date.* Paragraph (g)(1) of this section applies to payments of gross income after August 27, 2018.

Kristen Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2018–18377 Filed 8–23–18; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0598; FRL–9982–85—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Regional Haze Five-Year Progress Report

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 Maryland. Maryland's SIP revision, the Regional Haze Five-Year Progress Report, addresses Clean Air Act (CAA) provisions that require the State to submit periodic reports addressing reasonable progress goals (RPGs) established for regional haze and to make a determination of the adequacy of

the State's existing regional haze SIP. Maryland's progress report notes that the State has implemented the measures that are specified in the regional haze SIP which were due to be in place by the date of the progress report. The progress report also notes that visibility in federal Class I areas that may have been affected by emissions from Maryland is improving and that these Class I areas have already met the applicable RPGs for 2018. EPA is proposing approval of Maryland's progress report and its determination that the State's regional haze SIP is adequate to meet these RPGs for the first implementation period, which extends through 2018, and requires no substantive revision. This action is being taken under the CAA.

DATES: Written comments must be received on or before September 26, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0598 at *http://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814–2023, or by email at *trouba.erin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

States are required to submit a progress report in the form of a SIP revision that evaluates progress towards visibility improvement in the first implementation period, including progress towards the RPGs for each mandatory Class I federal area [1] (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The progress report SIP for the first planning period is due five years after submittal of the initial regional haze SIP. On February 13, 2012, Maryland submitted the State's first regional haze SIP in accordance with 40 CFR 51.308.[2] On August 9, 2017, Maryland, through the Maryland Department of the Environment (MDE), submitted a progress report, as a revision to its SIP, which detailed the progress made in the first planning period toward implementation of the Long-Term Strategy (LTS) outlined in the 2012 regional haze SIP, the visibility improvement measured at Class I areas affected by emissions from Maryland, and a determination of the adequacy of the State's existing regional haze SIP.

II. Summary of SIP Revision and EPA Analysis

Maryland's regional haze progress report SIP submittal (2017 progress report) addresses the elements for progress reports required under the provisions of 40 CFR 51.308(g) and includes a determination as required by 40 CFR 51.308(h) that the State's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. This section summarizes Maryland's 2017 progress report and EPA's analysis and proposed approval of Maryland's submittal.

A. Regional Haze Progress Report

As required in 40 CFR 51.308(g), Maryland's 2017 progress report evaluated the status of all measures included in the State's 2012 regional haze SIP for achieving RPGs for affected Class I areas. Through consultation, states in the Mid Atlantic/Northeast Visibility Union (MANE–VU),[3] including Maryland, were requested to adopt and implement control strategies to assure reasonable progress towards improvement of visibility in the MANE–VU Class I areas. These strategies are commonly referred to as the MANE–VU ''Ask.'' The MANE–VU ''Ask'' includes: (1) 90% or more reduction in sulfur dioxide (SO_2) emissions at 167 electric generating unit (EGU) ''stacks'' identified by MANE–VU (or comparable alternative measures), (2) timely implementation of best available retrofit technology (BART) [4] requirements, (3) lower sulfur fuel oil (with limits specified for each state), and (4) continued evaluation of other control measures.[5] The strategies from the ''Ask'' are the measures that Maryland included in the 2012 regional haze SIP and which are addressed in the 2017 progress report. Maryland addressed the measures listed in the 2012 regional haze SIP through implementing the state-wide Healthy Air Act (HAA),[6] implementing BART or alternatives to BART, adopting a low-sulfur fuel oil regulation into COMAR 03.03.05.04, and evaluating other control methods to reduce SO_2 and nitrogen oxides (NO_X).

In response to the MANE–VU ''Ask'' to achieve 90% or more reduction in SO_2 emissions at 167 EGU ''stacks,'' Maryland demonstrates, in the 2017 progress report, that the HAA has been implemented and has provided significant reductions in SO_2 and NO_X from coal-fired EGUs, including several BART-eligible units. At the BART eligible EGUs, the existing controls were considered BART for NO_X, SO_2, and particulate matter (PM). The HAA addressed 15 coal-fired EGUs in the state, including the twelve identified within the ''Ask's'' 167 stacks and all seven of the BART-eligible EGUs in the state.[7] The HAA established tonnage

[1] Areas designated as mandatory Class I federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). *See* 40 CFR part 81, subpart D.

[2] On July 6, 2012 (77 FR 39938), EPA approved Maryland's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze.

[3] MANE–VU was formed by the Mid-Atlantic and Northeastern states, tribes, and federal agencies to coordinate regional haze planning activities for the region to meet requirements in the CAA and federal regional haze regulations.

[4] BART eligible sources are those sources which have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were put in place between August 7, 1962 and August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories.

[5] The MANE–VU ''Ask'' was structured around the finding that SO_2 emissions were the dominate visibility impairing pollutant at the Northeastern Class I areas and that EGUs comprised the largest SO_2 emission sector.

[6] The HAA, codified at COMAR 26.11.27, was effective as of July 16, 2007 and was approved by EPA into the Maryland SIP on September 4, 2008 (73 FR 51599).

[7] R. Paul Smith Units 3 & 4 have shut down since the approval of Maryland's regional haze SIP in 2012. The HAA originally addressed 15 units, but currently addresses 13 active EGUs in the state.

caps for emissions of NO_X and SO_2 from 15 coal-fired EGUs, 13 of which are still operating. The HAA's annual SO_2 caps were implemented in two phases, first in 2010 and then in 2013. The annual NO_X caps were implemented in 2009 and 2012. In the 2017 progress report, Maryland reported that NO_X emissions were reduced by 89% from a 2002 baseline from these EGUs and SO_2 emissions from these EGUs were reduced by 269,444 tons per year from the 2002 baseline, a 92% reduction from 2002 to 2015. Maryland asserts that the SO_2 and NO_X emissions reductions under the HAA exceeded reductions that would have been achieved through BART controls alone at the EGUs.

The 2017 progress report also addressed implementation of BART and alternatives to BART [8] at Maryland's two non-EGU BART eligible source specific units—Holcim Cement and Verso Luke Paper. In the BART analysis for Holcim's Portland cement kiln in Hagerstown, Maryland, the State determined and EPA approved the addition of selective non-catalytic reduction (SNCR) as BART for PM and NO_X and the previously installed controls as BART for SO_2. *See* 77 FR 11827 (February 28, 2012). The SIP-approved regulation, COMAR 26.11.30, pertaining to Reasonably Available Control Technology (RACT) for the 2008 ozone National Ambient Air Quality Standards (NAAQS), establishes more stringent NO_X limits for Portland Cement Plants in the State, including Holcim Cement. 83 FR 13192 (March 28, 2018). As a result of the RACT requirements, Holcim upgraded its equipment in 2016 from a long-dry kiln to a pre-heater/pre-calciner kiln and installed a SNCR addressing BART requirements for NO_X and PM. Holcim is required to meet a limit of 2.4 pounds (lbs) of NO_X per ton of clinker on a 30-day rolling average effective April 1, 2017.

In June 2012, EPA approved BART emission limits for power boiler 25, a BART subject source, at the Verso Luke Paper Mill. 77 FR 39938 (June 13, 2012). In July 2017, EPA removed the previously approved BART requirements for SO_2 and NO_X from power boiler 25 (No. 25) and replaced them with new, alternative emission requirements as BART.[9] EPA established an annual SO_2 cap for power boiler 25 and approved alternative BART emission limits for SO_2 and NO_X for power boiler 24 (No. 24): (1) A new BART emission limit of 0.28 pounds per million British thermal units (lbs/mmBtu), measured as an hourly average for SO_2; and (2) a new BART emission limit of 0.4 lb/mmBtu, measured on a 30-day rolling average for NO_X. 82 FR 35451 (July 31, 2017). The BART PM limit on power boiler No. 25 remains at 0.07 lb/MMBtu.

Included in the MANE–VU ''Ask'' and as a measure in the State's 2012 regional haze SIP was a low-sulfur oil strategy. In 2014, Maryland adopted amendments to COMAR 03.03.05.04, ''Specifications for No. 1 and No. 2 Fuel Oil.'' The amendments, effective October 13, 2014, lowered the maximum allowable amount of sulfur in #1 and #2 fuel oil in two stages, from 3,000 to 2,000 parts per million (ppm) of sulfur in 2014, and then from 2,000 to 500 ppm of sulfur in 2016. While this strategy does not meet the exact specifications or timeline of the ''Ask,'' MANE–VU left an option for flexibility in reducing SO_2 emissions by implementing other strategies. In the 2012 regional haze SIP, Maryland projected that the reductions achieved by implementing the HAA would greatly exceed projected reductions from fully implementing the ''Ask's'' low-sulfur fuel oil strategy. Maryland stated it intends to submit this regulation, COMAR 03.03.05.04, for future SIP approval.

In the 2017 progress report, Maryland also mentions EPA approved for the Maryland SIP amendments adopted into COMAR 26.11.38, ''Control of NO_X emissions from Coal-Fired Electric Generating Units,'' which addresses the 2012 regional haze SIP measure to evaluate other control methods to reduce SO_2 and NO_X. 82 FR 24546 (June 29, 2017). For 13 coal-fired EGUs in the state, Maryland asserts this regulation establishes a system-wide emissions rate of 0.15 lbs/mmBtu on a 30-day rolling average during the ozone season for NO_X emissions at all coal-burning EGUs owned by the same company. An additional requirement in COMAR 26.11.38 to optimize controls is monitored by compliance with a 24-hour block emissions limit during ozone season for each coal-burning EGU. Although COMAR 26.11.38 is specifically designed to reduce ozone impacts by reducing NO_X emissions, Maryland stated in the 2017 progress report that it believes that this regulation benefits visibility in nearby Class I areas because NO_X is a visibility impairing pollutant as well as a precursor to ozone.

EPA finds that Maryland's analysis in its 2017 progress report adequately addresses the applicable provisions under 40 CFR 51.308(g), as the State demonstrated the implementation of control measures in the Maryland regional haze SIP and in the MANE–VU ''Ask.''

The provisions under 40 CFR 51.308(g) also require the state to provide analysis of emissions trends of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In Section 4 of the 2017 progress report, Maryland provided an assessment of the following visibility impairing pollutants: SO_2, NO_X, volatile organic compounds (VOCs), and fine particulate matter ($PM_{2.5}$) by category. MANE–VU and Maryland determined that SO_2 emissions are the most significant pollutant impacting regional haze in MANE–VU Class I areas, therefore, the bulk of visibility improvement was expected to result from reductions in SO_2 emissions from sources inside and outside of the State. The emissions reductions data in Table 1 demonstrates that NO_X, SO_2, VOC, and $PM_{2.5}$ emissions have decreased from Maryland's baseline emissions in 2002 to 2014, the last year for which a comprehensive national emission inventory (NEI) is available.

TABLE 1—EMISSIONS REDUCTIONS IN MARYLAND BY SECTOR IN 1,000 TONS PER YEAR (tpy)

Sector	Pollutant	2002	2014	Percent reductions
Point	NO_X	104.56	27.00	74
	$PM_{2.5}$	30.16	10.90	64
	SO_2	320.76	49.43	85
	VOC	12.54	4.11	67
Non-Road	NO_X	58.35	31.13	47

[8] The requirements for alternative measures are established at 40 CFR 51.308(e)(2).

[9] The BART limits for power boiler 25 approved in 2012 were 0.07 pounds per million British thermal units (lb/mmBtu) for PM, 0.40 lb/mmBtu on a rolling 30 day average for NO_X and 0.44 lb/mmBtu for SO_2.

TABLE 1—EMISSIONS REDUCTIONS IN MARYLAND BY SECTOR IN 1,000 TONS PER YEAR (tpy)—Continued

Sector	Pollutant	2002	2014	Percent reductions
	$PM_{2.5}$	4.54	2.58	43
	SO_2	16.65	4.47	73
	VOC	56.73	27.61	51
On-Road	NO_X	167.38	61.64	63
	$PM_{2.5}$	5.79	2.15	63
	SO_2	4.96	0.52	90
	VOC	65.77	30.27	54
Area	NO_X	12.79	12.64	1
	$PM_{2.5}$	16.48	11.77	29
	SO_2	11.12	5.94	47
	VOC	120.08	47.10	61

To assess emissions reductions from air pollution control measures being implemented between the baseline period and 2018, MANE–VU developed emissions projections for 2018 for the first round of regional haze SIPs. Section 4 of Maryland's 2017 progress report details emission trends from 2002 to 2014 and compares the trends to MANE–VU's projections of 2018 inventories that were included in Maryland's 2012 regional haze SIP. Maryland asserts in its 2017 progress report and EPA finds that emissions of SO_2, NO_X, VOC and $PM_{2.5}$ for all sectors show a downward trend from 2002 through 2014. The 2014 NEI data shows SO_2, VOC and $PM_{2.5}$ emissions significantly below the projected 2018 totals in all categories. NO_X emissions declined steeply between 2002 and 2014 largely due to point source and on-road emission reductions. Maryland states in the 2017 progress report that the overall reductions in all pollutants and downward trends far outweigh minimal increases in any sector in years between the baseline and 2018, and the increases do not inhibit the State's ability to improve visibility, reduce emissions of NO_X and SO_2, and continue to make progress toward the overall regional haze goals. Section 4 of Maryland's 2017 progress report also analyzes emissions in the MANE–VU region. Overall haze-impacting emissions have declined and are projected to continue to decline. Maryland concludes that the general decline in pollutants in the region indicate that changes in anthropogenic emissions have not and will not impede progress to improving visibility or Class I areas meeting their RPGs.

EPA finds Maryland has adequately addressed the provisions under 40 CFR 51.308(g) relating to emission reductions and emission trends. Maryland detailed the SO_2 and NO_X reductions in Maryland from the 2002 regional haze baseline to 2014, the most recently available year of data at the time of the development of Maryland's 2017 progress report, discussed overall emission trends for all visibility-impacting pollutants, and discussed the implementation of regional haze SIP measures including BART. EPA agrees with Maryland's conclusion that it is reasonable to conclude anthropogenic emissions will not impede progress to improving visibility in the region given the large overall reductions in pollutant emissions, particularly in SO_2 emissions in the State and in the Mid-Atlantic region.

The provisions under 40 CFR 51.308(g) also require states with Class I areas within their borders to provide information on current visibility conditions and the difference between current visibility conditions and baseline visibility conditions expressed in terms of five-year averages of those annual values. Maryland does not have any Class I areas; however, the 2017 progress report provided visibility condition data to support the assessment that the regional haze SIP is sufficient to enable other states to meet the RPGs for Class I areas affected by Maryland.

Seven Class I areas in the MANE–VU and Visibility Improvement State and Tribal Association of the Southeast (VISTAS) Regional Planning Organizations (RPOs) [10] are impacted by sulfate emissions from Maryland's sources, as was stated in the State's 2012 regional haze SIP submission which EPA approved in July 2012.[11] 77 FR 39938. The Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring program provides data on the air pollutants that contribute to regional haze. Maryland's 2017 progress report included IMPROVE visibility data for each Class I area in the region which is impacted by Maryland sources and addresses the progress from the baseline 2000–2004 five-year average visibility to the 2011–2015 five-year average visibility for all affected Class I areas. Table 2 shows IMPROVE visibility data and shows the progress from the baseline period to the most recent averaging period and the RPG for each Class I area.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS

Class I area IMPROVE site	2000–2004 5-year average	2011–2015 5-year average	Met 2018 RPG already?	2018 RPG
20% Haziest Days				
Acadia National Park	22.9	17.4	Yes	19.4
Brigantine Wilderness	29.0	22.6	Yes	25.1

[10] Maryland was identified as influencing the visibility impairment of the following Class I areas: Acadia National Park, Brigantine National Wildlife Refuge, and Lye Brook Wilderness Area as well as the Dolly Sods Wilderness, Otter Creek Wilderness, and Shenandoah National Park.

[11] VISTAS is a collaborative effort of state governments, tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Southeastern United States. Member States and Tribes include: the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia and the Eastern Band of the Cherokee Indians.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS—Continued

Class I area IMPROVE site	2000–2004 5-year average	2011–2015 5-year average	Met 2018 RPG already?	2018 RPG
Great Gulf/Presidential Range-Dry River Wilderness	22.8	16.4	Yes	19.1
Lye Brook Wilderness	24.4	18.0	Yes	20.9
Moosehorn Wilderness/Roosevelt Campobello International Park	21.7	16.8	Yes	19.0
Dolly Sods Wilderness/Otter Creek [12]	29.5	21.2	Yes	21.7
Shenandoah National Park	29.3	20.7	Yes	21.9
20% Clearest Days				
Acadia National Park	8.8	6.9	Yes	8.3
Brigantine Wilderness	14.3	12.0	Yes	14.3
Great Gulf/Presidential Range-Dry River Wilderness	7.7	5.7	Yes	7.2
Lye Brook Wilderness	6.4	5.3	Yes	5.5
Moosehorn Wilderness/Roosevelt Campobello International Park	9.2	6.9	Yes	8.6
Dolly Sods Wilderness	12.3	8.2	Yes	11.1
Shenandoah National Park	10.9	7.9	Yes	8.7

EPA notes the substantial progress made in the IMPOVE visibility data, as the Class I areas affected by emissions from Maryland have already achieved and surpassed the 2018 RPGs set in the first regional haze SIPs in the Mid-Atlantic and Northeast regions. Class I areas affected by emissions from Maryland have current visibility conditions better than baseline conditions and better than RPGs.

EPA finds Maryland provided the required information regarding visibility conditions and implementation of all measures included in the State's regional haze SIP to meet the requirements under 40 CFR 51.308(g), specifically providing baseline visibility conditions (2000–2004), current conditions based on the most recently available IMPROVE monitoring data (2011–2015), and an assessment of the change in visibility impairment at its Class I areas.

As stated, Maryland does not have any Class I areas; therefore, Maryland is not required to monitor for visibility-impairing pollutants. Maryland's visibility monitoring strategy relies upon Class I areas' participation in the IMPROVE network; however, Maryland stated that it does intend to maintain the IMPROVE site at Frostburg Reservoir. EPA finds Maryland has adequately addressed the requirements for a monitoring strategy for regional haze and finds no further modifications to the monitoring strategy are necessary.

In its 2017 progress report, Maryland concludes the elements and strategies relied on in its regional haze SIP are sufficient to enable neighboring states to meet all established RPGs. As shown in Table 2 above, visibility on least—impaired and most—impaired days from 2000 through 2014 has improved at all Class I areas affected by emissions from Maryland. In addition, all Class I areas impacted by Maryland's emissions have met their RPGs. EPA therefore finds Maryland has adequately addressed the provisions for its progress report in 40 CFR 51.308(g).

B. Determination of Adequacy of Existing Regional Haze Plan

In the 2017 progress report, Maryland submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in Maryland beyond those already in its regional haze SIP to address the requirement for a determination of adequacy in 40 CFR 51.308(h). Maryland determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is that visibility has improved at all Class I areas impacted by Maryland's sources in the MANE–VU and VISTAS regions. In addition, there has been a significant downward trend in emissions of NO_X, SO_2, VOC, and $PM_{2.5}$ from the baseline year for Maryland's regional haze SIP (2002) to the latest emission inventory for Maryland in 2014. In addition, SO_2, VOC, and $PM_{2.5}$ emissions are significantly below the 2018 totals projected in Maryland's 2012 regional haze SIP submittal.

EPA concludes that Maryland has adequately addressed the provisions under 40 CFR 51.308(h) because visibility and emission trends indicate that Class I areas impacted by Maryland's sources are meeting or exceeding the RPGs for 2018, and expect to continue to meet or exceed the RPGs for 2018. Thus, EPA finds Maryland's negative declaration (*i.e.,* that the existing regional haze SIP requires no further substantive revision to achieve goals for visibility improvement and emission reductions) reasonable and in accordance with requirements in 40 CFR 51.308(h).

III. Proposed Action

EPA is proposing to approve Maryland's 2017 progress report, submitted on August 9, 2017, as meeting the applicable CAA requirements in section 110 and meeting regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[12] The West Virginia 5-year progress report submittal states that the IMPROVE monitor in Dolly Sods is a surrogate for Otter Creek. *See* 80 FR 32019 (June 5, 2015).

- 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, this proposed rule to approve Maryland's 2017 progress report does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 15, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2018–18526 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0133; FRL–9982–76—Region 9]

Air Plan Revisions; California; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to delete various local rules from the California State Implementation Plan (SIP) that were approved in error. These rules include general nuisance provisions, certain federal performance requirements, hearing board procedures, variance provisions, and local fee provisions. The EPA has determined that the continued presence of these rules in the SIP is potentially confusing and thus problematic for affected sources, the state, local agencies, and the EPA. The intended effect of this proposal is to delete these rules to make the SIP consistent with the Clean Air Act. The EPA is also proposing to make certain other corrections to address errors made in previous actions taken by the EPA on California SIP revisions.

DATES: Any comments must arrive by September 26, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0133 at *http://www.regulations.gov,* or via email to Kevin Gong, at *gong.kevin@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited 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 *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972–3073, *gong.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. Why is the EPA proposing to correct the SIP?

The Clean Air Act (CAA or ''Act'') was first enacted in 1970. In the 1970s and early 1980s, thousands of state and local agency regulations were submitted to the EPA for incorporation into the SIP to fulfill the new federal requirements. In many cases, states submitted entire regulatory air pollution programs, including many elements not required by the Act. Due to time and resource constraints, the EPA's review of these submittals focused primarily on the new substantive requirements, and we approved many other elements into the SIP with minimal review. We now recognize that many of these elements were not appropriate for approval into the SIP. In general, these elements are appropriate for state and local agencies to adopt and implement, but it is not necessary or appropriate to make them federally enforceable by incorporating them into the applicable SIP. These include:

A. Rules that prohibit emissions causing general nuisance or annoyance in the community.[1] Such rules address local issues but have essentially no connection to the purposes for which SIPs are developed and approved, namely the implementation, maintenance, and enforcement of the

[1] An example of such a rule is as follows: A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.

national ambient air quality standards (NAAQS). *See* CAA section 110(a)(1).

B. Local adoption of federal New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements either by reference or by adopting text identical or modified from the requirements found in 40 Code of Federal Regulations (CFR) part 60 or 61. Because the EPA has independent authority to implement 40 CFR parts 60 and 61, it is not appropriate to make parallel local authorities federally enforceable by approving them into the applicable SIP.

C. Rules that govern local hearing board procedures and other administrative requirements such as fees, frequency of meetings, salaries paid to board members, and procedures for petitioning for a local hearing.

D. Variance provisions that provide for modification of the requirements of the applicable SIP. State- or district-issued variances provide an applicant with a mechanism to obtain relief from state enforcement of a state or local rule under certain conditions. Pursuant to federal law, specifically section 110(i) of the CAA, 42 U.S.C. 7410(i), neither the EPA nor a state may revise a SIP by issuing an ''order, suspension, plan revision or other action modifying any requirement of an applicable implementation plan'' without a plan promulgation or revision. The EPA and California have long recognized that a state-issued variance, though binding as a matter of state law, does not prevent the EPA from enforcing the underlying SIP provisions unless and until the EPA approves that variance as a SIP revision. The variance provisions included in this action are deficient for various reasons, including their failure to address the fact that a state- or district-issued variance has no effect on federal enforceability unless the variance is submitted to and approved by the EPA as a SIP revision. Therefore, their inclusion in the SIP is inconsistent with the Act and may be confusing to regulated industry and the general public. Moreover, because state-issued variances require independent EPA approval to modify the substantive requirements of a SIP, removal of these variance provisions from the SIP will have no effect on regulated entities. *See Industrial Environmental Association* v. *Browner,* No. 97–71117 (9th Cir., May 26, 2000).

E. Local fee provisions that are not economic incentive programs and are not designed to replace or relax a SIP emission limit. While it is appropriate for local agencies to implement fee provisions, for example, to recover costs for issuing permits, it is generally not appropriate to make local fee collection federally enforceable.

II. What is the EPA's authority to correct errors in SIP rulemakings?

Section 110(k)(6) of the CAA, as amended in 1990, provides that, whenever the EPA determines that the EPA's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in error, the EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof must be provided to the state and the public. We interpret this provision to authorize the EPA to make corrections to a promulgated regulation when it is shown to our satisfaction (or we discover) that (1) we clearly erred by failing to consider or by inappropriately considering information made available to the EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. *See* 57 FR 56762, at 56763 (November 30, 1992) (correcting designations, boundaries, and classifications of ozone, carbon monoxide, particulate matter and lead areas).

III. Which rules are proposed for deletion?

The EPA has determined that the rules listed in Table 1 below are inappropriate for inclusion in the SIP, but were previously approved into the SIP in error. Dates that these rules were submitted by the state and approved by the EPA are provided. We are proposing deletion of these rules and any earlier versions of these rules from the individual air pollution control district portions of the California SIP under CAA section 110(k)(6) as inconsistent with the requirements of CAA section 110. A brief discussion of the proposed deletions is provided in the following paragraphs.

TABLE 1—LOCAL AIR DISTRICT RULES PROPOSED FOR DELETION

Rule or regulation	Title	Submittal date	EPA approval
Amador County Air Pollution Control District (APCD)			
Rule 5	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 6	Additional Exception	June 30, 1972	37 FR 19812 (September 22, 1972).
Antelope Valley Air Quality Management District (AQMD)			
Los Angeles County APCD Rule 51	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Bay Area AQMD			
Division 11	Hydrogen Sulfide	February 21, 1972	37 FR 10842 (May 31, 1972).
Section 11101	[establishes hydrogen sulfide limits]	November 2, 1973	42 FR 23802 (May 11, 1977); corrected at 42 FR 42219 (August 22, 1977).
Regulation 8	Emission Standards for Hazardous Pollutants.	January 10, 1975	42 FR 23802 (May 11, 1977).
Butte County AQMD			
Section 2–1	[general nuisance provision]	February 21, 1972	37 FR 10842 (May 31, 1972).
Rule 619	Effective Date of Decision	February 10, 1986	52 FR 3226 (February 3, 1987).

TABLE 1—LOCAL AIR DISTRICT RULES PROPOSED FOR DELETION—Continued

Rule or regulation	Title	Submittal date	EPA approval
Calaveras County APCD			
Rule 205	Nuisance	July 22, 1975	42 FR 23803 (May 11, 1977); corrected at 42 FR 42219 (August 22, 1977).
Rule 603	Hearing Board Fees	July 22, 1975	42 FR 23803 (May 11, 1977); corrected at 42 FR 42219 (August 22, 1977).
Colusa County APCD			
Rule 4.5	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 4.6	Additional Exception	June 30, 1972	37 FR 19812 (September 22, 1972).
Eastern Kern APCD			
Kern County APCD Rule 419	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Kern County APCD Rule 420	Exception	June 30, 1972	37 FR 19812 (September 22, 1972).
El Dorado County AQMD			
Rule 52	Nuisance	February 21, 1972	37 FR 10842 (May 31, 1972).
Rule 53	Exceptions to Rule 52	February 21, 1972	37 FR 10842 (May 31, 1972).
Rule 706	Failure to Comply with Rules	May 23, 1979	46 FR 27115 (May 18, 1981).
Feather River AQMD			
Yuba County Rule 9.7	Permit Actions	March 30, 1981	47 FR 15585 (April 12, 1982).
Yuba County Rule 9.8	Variance Actions	March 30, 1981	47 FR 15585 (April 12, 1982).
Glenn County APCD			
Rule 78	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 79	Exceptions	June 30, 1972	37 FR 19812 (September 22, 1972).
Great Basin Unified APCD			
Rule 402	Nuisance	April 21, 1976	42 FR 28883 (June 6, 1977).
Rule 617	Emergency Variances	December 17, 1979	46 FR 8471 (January 27, 1981).
Imperial County APCD			
Rule 117	Nuisances	February 21, 1972	37 FR 10842 (May 31, 1972).
Rule 513	Record of Proceedings	November 4, 1977	43 FR 35694 (August 11, 1978).
Lake County AQMD			
Section 1602	Petition Procedures	March 30, 1981	47 FR 15784 (April 13, 1982).
Section 1701.Q	[excess emissions estimate for variance petitions].	February 10, 1986	52 FR 3226 (February 3, 1987).
Lassen County APCD			
Rule 3:2	Permit Fees	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 3:3	Permit Fee Schedules	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 3:4	Analysis Fees	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 3:5	Technical Reports, Charges For	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 4:2	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Mariposa County APCD			
Rule 205	Nuisance	January 10, 1975	42 FR 42219 (August 22, 1977).
Mendocino County APCD			
Rule 4.A	General	February 21, 1972	37 FR 10842 (May 31, 1972).
Rule 620	Hearing Procedures	August 6, 1982	47 FR 50864 (November 10, 1982).
Modoc County APCD			
Rule 3:2	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
Rule 3:6	Additional Exception	June 30, 1972	37 FR 19812 (September 22, 1972).

TABLE 1—LOCAL AIR DISTRICT RULES PROPOSED FOR DELETION—Continued

Rule or regulation	Title	Submittal date	EPA approval
Mojave Desert AQMD			
Riverside County Rule 51	Nuisance	February 21, 1972	37 FR 10842 (May 31, 1972).
Riverside County APCD Rule 106	Record of Proceedings	February 21, 1972	37 FR 10842 (May 31, 1972).
South Coast AQMD Rule 1231	Judicial Review	January 2, 1979	45 FR 30626 (May 9, 1980).
Monterey Bay Air Resources District			
Monterey-Santa Cruz County Unified APCD Rule 402.	Nuisance	February 21, 1972	37 FR 10842 (May 31, 1972).
San Benito County APCD Rule 403	Nuisance	February 21, 1972	37 FR 10842 (May 31, 1972).
North Coast Unified AQMD			
Del Norte County APCD Regulation IV, introductory paragraph.	[untitled but represents a general nuisance type of provision].	February 21, 1972	37 FR 10842 (May 31, 1972).
Del Norte County APCD Rule 340	Technical Report Charges	November 10, 1976	43 FR 25677 (June 14, 1978).
Del Norte County APCD Rule 620	Hearing Procedures	November 10, 1976	43 FR 25677 (June 14, 1978).
Del Norte County APCD Rule 620	Hearing Procedures	August 6, 1982	47 FR 50864 (November 10, 1982).
Del Norte County APCD Rule 630	Decisions	November 10, 1976	43 FR 25677 (June 14, 1978).
Del Norte County APCD Rule 640	Record of Proceedings	November 10, 1976	43 FR 25677 (June 14, 1978).
Del Norte County APCD Rule 650	Appeal of Decision	November 10, 1976	43 FR 25677 (June 14, 1978).
Humboldt County APCD Rule 51	Prohibited Emissions	February 21, 1972	37 FR 10842 (May 31, 1972).
Trinity County APCD Regulation IV, introductory paragraph.	[untitled but represents a general nuisance type of provision].	June 30, 1972	37 FR 19812 (September 22, 1972).
Trinity County APCD Rule 56	Failure to Comply with Rules	June 30, 1972	37 FR 19812 (September 22, 1972).
Trinity County APCD Rule 62	Preliminary Matters	June 30, 1972	37 FR 19812 (September 22, 1972).
Trinity County APCD Rule 67	Lack of Permit	June 30, 1972	37 FR 19812 (September 22, 1972).
Trinity County APCD Rule 68	Issuance of Subpoenas, Subpoenas Duces Tecum.	June 30, 1972	37 FR 19812 (September 22, 1972).
Trinity County APCD Rule 620	Hearing Procedures	August 6, 1982	47 FR 50864 (November 10, 1982).
Northern Sierra AQMD			
Nevada County APCD Rule 700	Applicable Articles of the Health and Safety Code.	June 6, 1977	43 FR 41039 (September 14, 1978).
Nevada County APCD Rule 703 (paragraphs (E) and (I)).	Contents of Petitions	June 6, 1977	43 FR 41039 (September 14, 1978).
Nevada County APCD Rule 711	Evidence	April 10, 1975	43 FR 25687 (June 14, 1978).
Plumas County APCD Rule 51	Prohibited Emissions	June 30, 1972	37 FR 19812 (September 22, 1972).
Plumas County APCD Rule 516 (paragraph (C)).	Emergency Variance Provisions	June 22, 1981	47 FR 17486 (April 23, 1982).
Plumas County APCD Rule 701	General	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 702	Filing Petitions	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 703	Contents of Petitions	June 22, 1981	47 FR 17486 (April 23, 1982).
Plumas County APCD Rule 704	Petitions for Variances	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 710	Notice of Public Hearing	June 22, 1981	47 FR 17486 (April 23, 1982).
Plumas County APCD Rule 711	Evidence	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 712	Preliminary Matters	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 713	Official Notice	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 714	Continuances	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 715	Decision	January 10, 1975	43 FR 25680 (June 14, 1978).
Plumas County APCD Rule 716	Effective Date of Decision	January 10, 1975	43 FR 25680 (June 14, 1978).
Sierra County APCD Rule 516 (paragraph (C)).	Emergency Variance Provisions	June 22, 1981	47 FR 17486 (April 23, 1982).
Sierra County APCD Rule 703	Contents of Petitions	June 22, 1981	47 FR 17486 (April 23, 1982).
Sierra County APCD Rule 710	Notice of Public Hearing	June 22, 1981	47 FR 17486 (April 23, 1982).
Northern Sonoma County APCD			
52	Nuisance	June 30, 1972	37 FR 19812 (September 22, 1972).
85	Failure to Comply with Rules	June 30, 1972	37 FR 19812 (September 22, 1972).
91	Preliminary Matters	June 30, 1972	37 FR 19812 (September 22, 1972).
96	Lack of Permit	June 30, 1972	37 FR 19812 (September 22, 1972).
600	Authorization	October 16, 1985	52 FR 12522 (April 17, 1987).
610	Petition Procedure	October 16, 1985	52 FR 12522 (April 17, 1987).
620	Hearing Procedures	August 6, 1982	47 FR 50864 (November 10, 1982).

Amador County APCD

Amador County APCD Rule 5 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 5 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Amador County APCD Rule 6 (Additional Exception) provides an exception to Amador County APCD Rule 5 and should be deleted if Rule 5 is deleted. In this action, we are proposing to delete Amador County APCD Rules 5 and 6 from the Amador County portion of the California SIP.

Antelope Valley AQMD

Formed in 1997, the Antelope Valley AQMD administers air quality management programs in the Southeast Desert portion of Los Angeles County that is referred to as ''Antelope Valley.'' The Antelope Valley AQMD portion of the California SIP includes rules adopted by various air pollution control agencies that had jurisdiction over stationary sources in Antelope Valley since 1972, including the Los Angeles County APCD, the Southern California APCD, the South Coast AQMD, and the Antelope Valley AQMD. Los Angeles County APCD Rule 51 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 51 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Although Rule 51 was rescinded in the South Coast AQMD portion of Los Angeles County at 64 FR 71660 (December 22, 1999), the rescission did not apply within the Antelope Valley AQMD portion of the county because, by the time of the 1999 action, the South Coast AQMD no longer had jurisdiction within the Antelope Valley portion of Los Angeles County. In this action, we propose to delete Los Angeles County APCD Rule 51 (Nuisance) from the Antelope Valley AQMD portion of the California SIP.

Bay Area AQMD

Bay Area AQMD Division 11 (Hydrogen Sulfide) (including sections 11100, 11101, 11102, 11102.1–11102.8) was approved as part of the original SIP for the Bay Area AQMD portion of the California SIP. Section 11101, which is untitled but establishes hydrogen sulfide limits, was superseded by approval of Section 11101 at 42 FR 23802 (May 11, 1977), as corrected and recodified at 42 FR 42219 (August 22, 1977). There has never been a NAAQS for hydrogen sulfide, and thus, Bay Area AQMD Division 11 (including sections 11100, 11101, 11102, 11102.1–11102.8) does not relate to the NAAQS and was approved in error.

Bay Area AQMD Regulation 8 (Emission Standards for Hazardous Pollutants), as approved in 1977, includes certain definitions and four substantive rules: Rule 1 (NESHAPS General Provisions), Rule 2 (Emission Standard for Asbestos), Rule 3 (Emission Standard for Beryllium), and Rule 4 (Emission Standard for Beryllium Rocket Motor Firing). Bay Area AQMD Regulation 8 adopts text identical or modified from the requirements found in 40 CFR part 60 or 61, and because the EPA has independent authority to implement 40 CFR parts 60 and 61, it was not appropriate to make parallel local authorities federally enforceable by approving Regulation 8 into the Bay Area AQMD portion of the California SIP. In this action, we are proposing to delete Division 11 (including the amended version of section 11101), and Regulation 8 from the BAAQMD portion of the California SIP.

Butte County AQMD

Butte County AQMD Section 2–1 is a general-nuisance type of prohibitory rule. As such, Section 2–1 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Butte County AQMD Rule 619 (Effective Date of Decision) relates to hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. In this action, we are proposing to delete Section 2–1 and Rule 619 from the Butte County AQMD portion of the California SIP.

Calaveras County APCD

Calaveras County APCD Rule 205 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 205 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Calaveras County APCD Rule 603 (Hearing Board Fees) relates to hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. In this action, we are proposing to delete Rules 205 and 603 from the Calaveras County APCD portion of the California SIP.

Colusa County APCD

Colusa County APCD Rule 4.5 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 4.5 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Colusa County APCD Rule 4.6 (Additional Exception) provides an exception to Colusa County APCD Rule 4.5 and should be deleted if Rule 4.5 is deleted. In this action, we are proposing to delete Rules 4.5 and 4.6 from the Colusa County APCD portion of the California SIP.

Eastern Kern APCD

Kern County APCD Rule 419 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 419 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Kern County APCD Rule 420 (Exception) provides an exception to Kern County APCD Rule 419 and should be deleted if Rule 419 is deleted. In this action, we are proposing to delete Rules 419 and 420 from the Eastern Kern APCD portion of the California SIP.

El Dorado County AQMD

El Dorado County AQMD Rule 52 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 52 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. El Dorado County AQMD Rule 53 (Exceptions to Rule 52) provides an exception to El Dorado County AQMD Rule 52 and should be deleted if Rule 52 is deleted. El Dorado County AQMD Rule 706 (Failure to Comply with Rules) establishes certain hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. In this action, we are proposing to delete Rules 52, 53, and 706 from the El Dorado County AQMD portion of the California SIP.

Feather River AQMD

Formed in 1991, the Feather River AQMD administers air quality management programs in Yuba County and Sutter County. The Feather River AQMD portion of the California SIP includes rules adopted by the predecessor agencies, the Yuba County APCD and the Sutter County APCD, to the extent that such rules have not been superseded or removed through EPA approval of rules or rescissions adopted by the Feather River AQMD. Yuba County APCD Rules 9.7 (Permit Actions) and 9.8 (Variance Actions) establish certain hearing board procedures, and as such, were inappropriate for inclusion in the SIP and were thus approved by the EPA in error. In this action, we are proposing to delete Rules 9.7 and 9.8 from the Feather River AQMD portion of the California SIP.

Glenn County APCD

Glenn County APCD Rule 78 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 78 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Glenn County APCD Rule 79

(Exceptions) provides an exception to Glenn County APCD Rule 78 and should be deleted if Rule 78 is deleted. In this action, we are proposing to delete Rules 78 and 79 from the Glenn County APCD portion of the California SIP.

Great Basin Unified APCD

Great Basin Unified APCD Rule 402 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 402 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Great Basin Unified APCD Rule 617 (Emergency Variance) allows an owner or operator of stationary sources to file a petition for an emergency variance under certain circumstances and provides for review and action on the petition by the APCO and hearing board. As described above, such provisions are inconsistent with section 110(i) of the CAA and were thus approved by the EPA in error. In this action, we are proposing to delete Rules 402 and 617 from the Great Basin Unified APCD portion of the California SIP.

Imperial County APCD

Imperial County APCD Rule 117 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 117 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Imperial County APCD Rule 513 (Record of Proceedings) establishes certain hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. In this action, we are proposing to delete Rules 117 and 513 from the Imperial County APCD portion of the California SIP.

Lake County AQMD

Lake County AQMD Section 1602 (Petition Procedures) establishes certain hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. Lake County AQMD Section 1701.Q requires that petitions for variances include an excess emission estimate and supporting documentation. As described above, variance provisions are inconsistent with section 110(i) of the CAA and were thus approved by the EPA in error. In this action, we are proposing to delete Sections 1602 and 1701.Q from the Lake County AQMD portion of the California SIP.

Lassen County APCD

Lassen County APCD Rules 3:2, 3:3, 3:4, and 3:5 are local fee provisions that were not appropriate for inclusion in the SIP and thus were approved by the EPA in error. On January 18, 2002 (67 FR 2573), the EPA deleted without replacement earlier versions of these same rules that had been submitted as part of the original California SIP on February 21, 1972 and approved on May 31, 1972 (37 FR 10842), but we did not recognize at the time of our 2002 action that the subject rules had been superseded by rules submitted on June 30, 1972 and approved on September 22, 1972 (37 FR 19812). In this action, we propose to delete the later-submitted and approved fee rules for Lassen County. Lassen County APCD Rule 4:2 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 4:2 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. In this action, we are proposing to delete Rule 4:2 and the fee rules discussed above from the Lassen County APCD portion of the California SIP.

Mariposa County APCD

Mariposa County APCD Rule 205 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 205 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. In this action, we are proposing to delete Rule 205 from the Mariposa County APCD portion of the California SIP.

Mendocino County APCD

Mendocino County APCD Rule 4.A (General) is a general-nuisance type of prohibitory rule. As such, Rule 4.A was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Mendocino County APCD Rule 620 (Hearing Procedures) establishes certain hearing board procedures, and as such, was inappropriate for inclusion in the SIP and was thus approved by the EPA in error. In this action, we are proposing to delete Rules 4.A and 620 from the Mendocino County APCD portion of the California SIP.

Modoc County APCD

Modoc County APCD Rule 3:2 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 3:2 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Modoc County APCD Rule 3:6 (Additional Exception) provides an exception to Modoc County APCD Rule 3:2 and should be deleted if Rule 3:2 is deleted. In this action, we are proposing to delete Rules 3:2 and 3:6 from the Modoc County APCD portion of the California SIP.

Mojave Desert AQMD

Regulation of stationary air pollution sources in Riverside County is split between the South Coast AQMD (which has jurisdiction over all Riverside County except the Palo Verde Valley) and the Mojave Desert AQMD (which has jurisdiction over the Palo Verde Valley portion of Riverside County). The Palo Verde Valley portion of Riverside County left the South Coast AQMD and joined the Mojave Desert AQMD on July 1, 1994. The applicable SIP for the Riverside County portion of the Mojave Desert AQMD (*i.e.,* the Palo Verde Valley) consists, in part, of rules that were adopted originally by the Riverside County APCD and by the South Coast AQMD and then approved by the EPA prior to July 1, 1994, and that have not yet been superseded or rescinded through EPA approval of SIP revisions adopted by the Mojave Desert AQMD.

Riverside County APCD Rule 51 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 51 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Riverside County APCD Rule 106 (Record of Proceedings) is proposed herein for deletion because it establishes certain hearing board procedures and was thus inappropriate for inclusion in the SIP and approved by the EPA in error. South Coast AQMD Rule 1231 (Judicial Review), also proposed herein for deletion, establishes certain district board procedures, and as such, was inappropriate for inclusion in the SIP and approved by the EPA in error.[2] In this action, we are proposing to delete Riverside County Rules 51 and 106 and South Coast AQMD Rule 1231 from the Riverside County portion of the Mojave Desert AQMD portion of the California SIP.

Monterey Bay Air Resources District

The Monterey Bay Air Resources District (formerly named the Monterey Bay Unified APCD) was formed in 1974 when the Monterey-Santa Cruz County Unified APCD merged with the San Benito County APCD. The rules adopted by the predecessor agencies remain in the SIP to the extent they have not been superseded or rescinded through EPA approvals of rules or rescissions adopted by the unified air district. Monterey-Santa Cruz County Unified APCD Rule 402 (Nuisance) and San Benito County APCD Rule 403 (Nuisance) are general-nuisance type of prohibitory rules. As such, Rules 402 and 403 were inappropriate for inclusion in the SIP and, thus, were

[2] The EPA approved the rescission of South Coast AQMD Rule 1231 at 64 FR 71660 (December 22, 1999), but the rescission was not applicable within the Palo Verde Valley portion of Riverside County because the Palo Verde Valley had joined Mojave Desert AQMD several years before the rescission was approved.

approved by the EPA in error. In this action, we are proposing to delete Rules 402 and 403 from the Monterey Bay Air Resources District portion of the California SIP.

North Coast Unified AQMD

Established in 1982, the North Coast Unified AQMD has jurisdiction over Del Norte, Humboldt and Trinity counties, and the North Coast Unified AQMD portion of the applicable California SIP includes rules that were adopted by these counties and approved by the EPA and not superseded or rescinded through subsequent SIP actions. The introductory paragraphs for Del Norte County APCD's Regulation VI (Prohibitions) and Trinity County APCD's Regulation IV (Prohibitions) and Humboldt County APCD Rule 51 (Prohibited Emissions) are general-nuisance type of prohibitory rules. As such, the introductory paragraphs of Regulation IV and Rule 51 were inappropriate for inclusion in the SIP and, thus, were approved by the EPA in error. Del Norte County APCD Rules 620 (Hearing Procedures), 630 (Decisions), 640 (Record of Proceedings) and 650 (Appeal of Decision) and Trinity County APCD Rules 56 (Failure to Comply with Rules), 62 (Preliminary Matters), 67 (Lack of Permit), 68 (Issuance of Subpoenas, Subpoenas Duces Tecum) and 620 (Hearing Procedures) establish certain hearing board procedures, and as such, were inappropriate for inclusion in the SIP and were approved by the EPA in error. Del Norte County APCD Rule 340 (Technical Report Charges) is a local fee provision that also was not appropriate for inclusion in the SIP and was approved in error. In this action, we are proposing to delete the various rules listed above from the North Coast Unified AQMD portion of the California SIP.

Northern Sierra AQMD

Established in 1986, the Northern Sierra AQMD has jurisdiction over Nevada, Plumas, and Sierra counties, and the Northern Sierra AQMD portion of the applicable California SIP includes rules that were adopted by these counties and approved by the EPA and not superseded or rescinded through subsequent SIP actions. Plumas County APCD Rule 51 (Prohibited Emissions) is a general-nuisance type of prohibitory rule. As such, Rule 51 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Nevada County APCD Rules 700 (Applicable Articles of the Health and Safety Code), 703 (Contents of Petitions) (paragraphs (E) and (I)) and 711 (Evidence); Plumas County APCD Rules 701 (General), 702 (Filing Petitions), 703 (Contents of Petitions), 704 (Petitions for Variances), 710 (Notice of Hearing), 711 (Evidence), 712 (Preliminary Matters), 713 (Official Notice), 714 (Continuances), 715 (Decision) and 716 (Effective Date of Decision); and Sierra County APCD Rules 703 (Contents of Petitions) and 710 (Notice of Public Hearing) establish certain hearing board procedures, and as such, were inappropriate for inclusion in the SIP and were thus approved by the EPA in error. Plumas County APCD Rule 516 (Upset and Breakdown Conditions) (paragraph C (''Emergency Variance Provisions'')) and Sierra County APCD Rule 516 (Upset and Breakdown Conditions) (paragraph C (''Emergency Variance Provisions'')) allow an owner or operator of stationary sources to file a petition for an emergency variance under certain circumstances and provides for review and action on the petition by the APCO and hearing board. As described above, such provisions are inconsistent with section 110(i) of the CAA and were thus not appropriate for inclusion in the SIP and were approved by the EPA in error. In this action, we are proposing to delete the various rules listed above from the Northern Sierra AQMD portion of the California SIP.

Northern Sonoma County APCD

Northern Sonoma County APCD Rule 52 (Nuisance) is a general-nuisance type of prohibitory rule. As such, Rule 52 was inappropriate for inclusion in the SIP and, thus, was approved by the EPA in error. Northern Sonoma County APCD Rules 85 (Failure to Comply with Rules), 91 (Preliminary Matters), 96 (Lack of Permit), 600 (Authorization), 610 (Petition Procedure) and 620 (Hearing Procedures) establish certain hearing board procedures, and as such, were inappropriate for inclusion in the SIP and were thus approved by the EPA in error. In this action, we are proposing to delete Rules 52, 85, 91, 96, 600, 610 and 620 from the Northern Sonoma County APCD portion of the California SIP.

IV. What other corrections is the EPA proposing to make?

The EPA is also proposing certain error corrections not because the rules were originally approved into the SIP in error but because of other types of errors made in the course of the SIP rulemaking action. Each such proposal is described in the following paragraphs.

Antelope Valley AQMD

With respect to the Antelope Valley AQMD portion of the California SIP, we are proposing three additional corrections related to the following: Los Angeles County APCD Regulation VI (Orchard or Citrus Grove Heaters), South Coast AQMD Rule 1186 (PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations), and Antelope Valley AQMD Rules 107 (Certification of Submissions and Emission Statements) and 1151 (Motor Vehicle and Mobile Equipment Coating Operations).

Rescission of Los Angeles County APCD Regulation VI (Orchard or Citrus Grove Heaters): Los Angeles County APCD Regulation VI includes the following rules: Rule 100 (Definitions), Rule 101 (Exceptions), Rule 102 (Permits Required), Rule 103 (Transfer), Rule 105 (Application for Permits), Rule 106 (Action on Applications), Rule 107 (Standards for Granting Permits), Rule 108 (Conditional Approval), Rule 109 (Denial of Applications), Rule 110 (Appeals), Rule 120 (Fees), and Rule 130 (Prohibitions). California submitted Los Angeles County APCD Regulation VI on June 30, 1972, and the EPA approved it on September 22, 1972 (37 FR 19812). Rule 120 was deleted without replacement at 67 FR 2573 (January 18, 2002), but the other Regulation VI rules remain in the SIP.

Regulation VI was rescinded in the Southeast Desert portion of Los Angeles County at 43 FR 40011 (September 8, 1978), but was reinstated throughout Los Angeles County when the EPA approved a SIP revision extending the jurisdiction of the South Coast AQMD to the Southeast Desert portion of the county and replacing the SIP rules that had been in effect for the Southeast Desert portion of Los Angeles County with those that applied in the South Coast AQMD. *See* 48 FR 52451 (November 18, 1983). At that time, the applicable SIP for the South Coast AQMD included Regulation VI because the EPA inadvertently failed to codify the rescission of the rules in an action affecting the South Coast AQMD portion of Los Angeles County published at 43 FR 25684 (June 14, 1978). In the final action on June 14, 1978, the EPA indicated: ''The changes to Regulation VI, Orchard Grove Heaters, contained in the above mentioned submittals and being acted upon by this notice include total replacement of county rules by California Health and Safety Code sections covering Orchard Heaters.'' 43 FR at 25685. However, the regulatory text deleting Regulation VI without replacement was not included in the

final rule, and thus, Regulation VI became part of the legacy SIP inherited by the Antelope Valley AQMD when it was established in 1997 in the Southeast Desert portion of Los Angeles County. In this action, we are proposing to add regulatory text deleting Regulation VI consistent with our action as described in the preamble to the June 14, 1978 final rule and to delete Los Angeles County APCD Regulation VI from the South Coast AQMD portion of the California SIP and to thereby delete Los Angeles County APCD Regulation VI from the Antelope Valley AQMD portion of the California SIP.

Deletion of South Coast Rule 1186 (PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations) for Implementation in the Antelope Valley AQMD: In a final rule published at 72 FR 64946 (November 19, 2007), the EPA added a paragraph to 40 CFR 52.220(c)(278)(i)(A) deleting South Coast AQMD Rule 1186 without replacement for implementation in the Antelope Valley AQMD. This paragraph was added in error. Originally adopted on February 14, 1997, no version of South Coast AQMD Rule 1186 has been approved by the EPA for implementation in the Antelope Valley. *See* footnote 4 in the proposed rule (63 FR 42786, August 11, 1998).[3] Thus, we are proposing to delete the erroneous regulatory language that was added by the November 19, 2007 final rule.

Reorganization of the CFR Affecting Antelope Valley AQMD Rules 107 and 1151: In a final rule published at 80 FR 13495 (March 16, 2015), we approved a rule adopted by the Sacramento Metropolitan AQMD but the amendatory instructions revising paragraph 40 CFR 52.220(c)(423) were in error such that rules that had been approved and listed under ''(i) Incorporation by reference,'' were erroneously moved under the ''(ii) Additional materials'' portion of paragraph 40 CFR 52.220(c)(423), including Antelope Valley AQMD Rules 107 (Certification of Submissions and Emission Statements) and 1151 (Motor Vehicle and Mobile Equipment Coating Operations), which were approved in 2013. See 78 FR 21545 (April 11, 2013) (approval of Rule 107) and 78 FR 58459 (September 24, 2013) (approval of Rule 1151). We are proposing to revise paragraph 40 CFR 52.220(c)(423) consistent with the rulemakings affecting that paragraph.

Eastern Kern APCD

Approval of 15% and Post-1996 Rate-of-Progress (ROP) Elements for the 1-Hour Ozone NAAQS: On January 8, 1997 (62 FR 1150), the EPA took final action to approve revisions to the California SIP for ozone for six nonattainment areas, including the San Joaquin Valley ozone nonattainment area, which at the time was defined to include all of Kern County (as well as seven other counties in the Central Valley) and thus subject to the jurisdiction of two air districts: The San Joaquin Valley Unified APCD and the Eastern Kern APCD. Among other elements, the EPA approved ''the ROP plans (the original 1994 submittal for 15% ROP requirements and the Kern District portion of the San Joaquin Valley, and the 1996 substitute submittal for post-1996 requirements) as meeting the 15% ROP requirements of section 182(b)(1) and the post-1996 ROP requirements of section 182(c)(2) of the Act.'' 62 FR at 1172. In the corresponding regulatory language of the January 8, 1997 final rule, the EPA explicitly identified the approved 15% and post-1996 ROP elements from the San Joaquin Valley Unified APCD but failed to do the same for the Eastern Kern APCD. *Compare* 40 CFR 52.220(c)(204)(i)(D)(1) (for the San Joaquin Valley Unified APCD) with 40 CFR 52.220(c)(205)(i)(A)(1) (for the Eastern Kern APCD). 62 FR at 1186. To clarify that, in our 1997 final rule, the EPA approved the 15% and post-1996 ROP demonstrations from the Eastern Kern APCD for the 1-hour ozone standard, we propose to revise 40 CFR 52.220(c)(205)(i)(A)(1) to explicitly add the 15% ROP and post-1996 ROP plans to the existing list of approved elements.

Incorporation by Reference of Approved Rules 108 and 417: On April 22, 2004 (69 FR 21713), the EPA took final action to approve certain rules adopted by the Eastern Kern APCD, including Rules 108 (Stack Sampling) and 417 (Agricultural and Prescribed Burning). Due to erroneous amendatory instructions, the CFR was not updated to reflect this final action. More specifically, the amendatory instructions on page 21715 of the April 22, 2004 final rule should have added paragraph (c)(321)(i)(*A*) to section 40 CFR 52.220 instead of paragraph (c)(321)(i)(*B*) because the latter was already in use to identify certain rules adopted by the San Joaquin Valley Unified APCD. We propose to fix this error by correcting the amendatory instructions.

El Dorado County AQMD

Reorganization of the CFR Affecting El Dorado County AQMD Rule 101: On October 10, 2001 (66 FR 51578), the EPA approved revisions to the El Dorado County AQMD portion of the California SIP. Among the approved revisions was El Dorado County AQMD Rule 101 (General Provisions and Definitions). The final rule codifies the approval of Rule 101 in paragraph 40 CFR 52.220(c)(280)(i)(*B*), which lists approved rules adopted by the El Dorado County AQMD, but due to a publishing error, the codification of the approval of Rule 101 is found in paragraph 40 CFR 52.220(c)(280)(i)(*C*), which lists EPA-approved rules adopted by the Yolo-Solano AQMD. We propose to fix this error accordingly.

Approval of El Dorado County AQMD Rule 1000.1 (Emission Statement Waiver): On May 26, 2004 (69 FR 29880), the EPA approved emissions statement rules for seven air districts in California, including Rule 1000 (Emission Statement) submitted for the El Dorado County AQMD portion of the California SIP. All but one of the emissions statement rules that were approved on May 26, 2004 include language providing a waiver to any class or category of stationary sources that emit less than 25 tons per year of volatile organic compounds (VOC) or oxides of nitrogen (NO_X) if certain conditions are met, which is consistent with CAA section 182(a)(3)(B)(ii). Unlike the rules that provide for the waiver as a paragraph within the emissions statement rule itself, the El Dorado County AQMD provides for the exemption in a separate rule, namely, Rule 1000.1 (Emission Statement Waiver).[4] Although Rule 1000.1 was submitted along with Rule 1000 on November 12, 1992, we only listed the latter rule as approved in our May 26, 2004 final action but should have listed both. We propose to add Rule 1000.1 (Emission Statement Waiver) in paragraph 40 CFR 52.220(c)(190)(i)(C)(1) to clarify that our May 26, 2004 approval included both Rule 1000 and Rule 1000.1.

Reorganization of the CFR Affecting El Dorado County AQMD Actions Listed

[3] Footnote 4 states: ''As indicated above, the SCAQMD has jurisdiction over the South Coast Air Basin (SCAB) and Coachella Valley PM–10 serious nonattainment areas. This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.'' 63 FR 42786, at 42788 (August 11, 1998).

[4] El Dorado County AQMD Rule 1000.1 provides: ''The APCO may waive this requirement to any class or category of stationary sources which emit less than 25 tons per year of oxides of nitrogen or reactive organic gas if the district provides the Air Resources Board with an emission inventory of sources emitting greater than 10 tons per year of nitrogen oxides or reactive organic gas based on the use of emission factors acceptable to the Air Resources Board.''

in 40 CFR 52.220(c)(27)(viii): On July 9, 2008 (73 FR 39237), the EPA approved revisions to the Northern Sierra AQMD portion of the California SIP, including rescission of certain rules that had been adopted by the Nevada County APCD. In the July 9, 2008 final rule, we added regulatory language to reflect the rule rescissions in paragraph 40 CFR 52.220(c)(27)(*vii*), which lists rules and rule rescissions applicable to the Nevada County APCD portion of the California SIP, but due to a publisher's error, the regulatory language is found in paragraph 40 CFR 52.220(c)(27)(*viii*), which lists rules and rule rescissions applicable to the El Dorado County AQMD portion of the California SIP. We propose to fix this error accordingly.

Great Basin Unified APCD

Disapproval of Great Basin Unified APCD Rule 401 (Fugitive Dust): On August 13, 2009 (74 FR 40750), the EPA took final action to disapprove revisions to the Great Basin Unified APCD portion of the California SIP. Specifically, the EPA *disapproved* Great Basin Unified APCD Rule 401 (Fugitive Dust); however, we mistakenly added a paragraph incorporating this rule by reference in 40 CFR 52.220 (''Identification of plan'') as if we had *approved* the rule as part of the California SIP. To correct this error, we propose to remove the corresponding paragraph (*i.e.,* 40 CFR 52.220(c)(350)(i)(A)(2)) from 40 CFR 52.220.

Lake County AQMD

Reinstatement of Lake County AQMD Tables I through IV: On June 27, 1997 (62 FR 34641), the EPA took final action to correct certain errors in previous actions on SIPs and SIP revisions by deleting without replacement the affected local rules. With respect to certain rules that were adopted by the Lake County AQMD, submitted by California on February 10, 1977, and approved by the EPA on August 4, 1978 (43 FR 34463), we added a paragraph, *i.e.,* (c)(37)(iv)(D), to 40 CFR 52.220 (Identification of plan) that states: ''Previously approved on August 4, 1978 and now deleted without replacement Rules . . . , and Tables I to V.'' 62 FR at 34645. First, Lake County AQMD Table V (Table of Standards, Applicable Statewide) was *disapproved* on August 4, 1978 (43 FR 34463), and because it was disapproved, it was not part of the SIP and need not be deleted. Second, Lake County AQMD Table I (Agencies Designated to Issue Agricultural Burning Permits), Table II (Daily Quota of Agricultural Material that May Be Burned by Watershed), Table III (Guides for Estimating Dry Weights of Several California Fuel Types), and Table IV (Particulate Matter Emissions Standard for Process Units and Process Equipment) are substantive provisions relied upon by certain prohibitory rules and were not approved ''in error.'' We are proposing to reinstate Lake County AQMD Tables I through IV by revising the regulatory language in 40 CFR 52.220(c)(37)(iv)(D) accordingly.[5]

Mojave Desert AQMD

Rescission of Riverside County APCD Regulation V (Orchard or Citrus Grove Heaters): Riverside County APCD Regulation V includes the following rules: Rule 75 (Definitions), Rule 76 (Exceptions), Rule 77 (Permits Required), Rule 78 (Application of Permits), Rule 79 (Action on Applications), Rule 80 (Standards for Granting Permits), Rule 81 (General Restrictions and Conditions of Permits), Rule 83 (Denial of Applications), Rule 84 (Appeals), Rule 85 (Classification of Orchard, Field Crop or Citrus Grove Heaters), and Rule 86 (Prohibitions). California submitted Riverside County APCD Regulation V on February 21, 1972 as part of the original California SIP, and the EPA approved it on May 31, 1972 (37 FR 10842).

Regulation V was rescinded in the Southeast Desert portion of Riverside County at 43 FR 40011 (September 8, 1978), but was reinstated throughout Riverside County when the EPA approved a SIP revision extending the jurisdiction of the South Coast AQMD to the Southeast Desert portion of the county and replacing the SIP rules that had been in effect for the Southeast Desert portion of Riverside County with those that applied in the South Coast AQMD. *See* 47 FR 25013 (June 9, 1982). At that time, the applicable SIP for the South Coast AQMD included Regulation V because the EPA inadvertently failed to codify the rescission of the rules in an action affecting the South Coast AQMD portion of Riverside County published at 43 FR 25684 (June 14, 1978). In the June 14, 1978, final action, the EPA indicated: ''The changes to Regulation VI, Orchard Grove Heaters, contained in the above mentioned submittals and being acted upon by this notice include total replacement of county rules by California Health and Safety Code sections covering Orchard Heaters.'' 43 FR at 25685. However, the regulatory text deleting Regulation V without replacement was not included in the final rule, and thus, Regulation V became part of the legacy SIP inherited by the Mojave Desert AQMD when the Palo Verde Valley portion of Riverside County joined the Mojave Desert AQMD in 1994. In this action, we are proposing to add regulatory text deleting Regulation V consistent with our action as described in the preamble to the June 14, 1978 final rule and to delete Riverside County APCD Regulation V from the South Coast AQMD portion of the California SIP and to thereby delete Riverside County APCD Regulation V from the Mojave Desert AQMD portion of the California SIP.

Monterey Bay Air Resources District

Disapproval of Monterey Bay Air Resources District Rule 200 (Permits Required): On March 26, 2015 (80 FR 15899), the EPA took final action to approve or disapprove certain revisions to the Monterey Bay Air Resources District portion of the California SIP. One of the actions finalized on March 26, 2015 was the disapproval of an amended version of Rule 200 (Permits Required) that had been submitted on May 8, 2001. Although we *disapproved* Rule 200, we mistakenly added a paragraph incorporating this rule by reference in 40 CFR 52.220 (''Identification of plan'') as if we had *approved* the rule as part of the California SIP. *See* 40 CFR 52.220(c)(284)(i)(A)(5). To correct this error, we propose to remove the corresponding paragraph (*i.e.,* (c)(284)(i)(A)(5)) from section 52.220 (Identification of plan).

Rescission of Monterey Bay Air Resources District Rule 208 (Standards for Granting Permits to Operate): In that same March 26, 2015, final rule (80 FR 15899), we approved the rescission of Monterey Bay District Rule 208 (Standards for Granting Permits to Operate), which had been submitted on February 6, 1985 and approved on July 13, 1987 (52 FR 26148), but we did not add corresponding regulatory language to remove the rule from the SIP. We propose to add a paragraph to 40 CFR 52.220(c)(159)(iii) to indicate that Monterey Bay District Rule 208 has been deleted without replacement.

North Coast Unified AQMD

Erroneous Amendatory Instruction for Disapproval of Certain Open Burning Rules: On May 18, 1981 (46 FR 27116), the EPA disapproved certain open burning rules adopted by the Santa Barbara County APCD, but the amendatory instructions erroneously listed the disapproved rules in

[5] Since 1997, the EPA has approved newer versions of Lake County AQMD Tables I and II, and thus, as a practical matter, reinstatement of Tables I through IV, as approved in 1978, would only reinstate Tables III and IV as part of the current applicable SIP for the Lake County AQMD portion of the California SIP.

subparagraph (6) of 40 CFR 52.273(a), which lists disapproved rules adopted by the Humboldt County APCD. The correct listing should have been in subparagraph (19), which lists disapproved rules adopted by the Santa Barbara County APCD. The erroneous amendatory instructions were based on the previous format of 40 CFR 52.273 and failed to account for the complete re-organization of 40 CFR 52.273 that the EPA published that same year at 46 FR 3883 (January 16, 1981). We are proposing to revise paragraph 40 CFR 52.273 to accurately reflect the 1981 disapproval of the Santa Barbara County open burning rules.

Northern Sierra AQMD

Codification of Approval of Northern Sierra AQMD Rules 212 and 213: On September 16, 1997 (62 FR 48480), the EPA took direct final action to approve certain revisions to the Northern Sierra AQMD portion of the California SIP. In the direct final rule, we indicated that we were approving Northern Sierra AQMD Rules 212 (Process Weight Table) and 213 (Storage of Gasoline Products) along with many other district rules, *see* 62 FR 48481/column 1 and 62 FR at 48482/column 2; however, in the regulatory portion of the direct final rule, we failed to include Rules 212 and 213 in the list of approved rules. We are proposing to add Rules 212 and 213 to the list of approved rules in 40 CFR 52.220(c)(246)(i)(A)(1).

Reinstatement of Nevada County APCD Rule 404 (Excluding Paragraph (D)): On June 27, 1997 (62 FR 34641), the EPA took final action to correct certain errors in previous actions on SIPs and SIP revisions by deleting without replacement the affected local rules. With respect to a rule that was adopted by the Nevada County APCD, submitted by California on October 15, 1979, and approved by the EPA on May 18, 1981 (46 FR 27115), we added a paragraph, *i.e.,* (c)(52)(xii)(B), to 40 CFR 52.220 (Identification of plan) that states: ''Previously approved on May 18, 1981 and now deleted without replacement Rule 404.'' 62 FR at 34646. In our proposed error correction, 61 FR 38664 (July 25, 1996), we indicated that the rule we intended to delete was Rule 404 (''Emergency Variance Procedures''), but the correct title of Rule 404 is ''Upset Conditions, Breakdown or Scheduled Maintenance,'' and ''Emergency Variance Procedures'' is the title of paragraph (D) of Rule 404. Thus, we intended to delete only paragraph (D) of Rule 404 but erroneously indicated in the final rule that we were deleting without replacement the entire rule. Accordingly, we propose to amend paragraph (c)(52)(xii)(B) to refer only to paragraph (D) of Rule 404.

V. Proposed Action and Request for Public Comment

The EPA has reviewed the rules listed in Table 1 above and determined that they were previously approved into the applicable California SIP in error. Deletion of these rules will not relax the applicable SIP and is consistent with the Act. Therefore, under section 110(k)(6) of the CAA, the EPA is proposing to delete the rules listed in Table 1 above and any earlier versions of these rules from the corresponding air pollution control district portions of the California SIP. These rules include general nuisance provisions, federal NSPS or NESHAP requirements, hearing board procedures, variance provisions, and local fee provisions. We are also proposing to make certain other corrections to fix errors in previous rulemakings on California SIP revisions as described in section IV above. We will accept comments from the public on this proposal until September 26, 2018.

VI. Incorporation by Reference

In this action, for the most part, the EPA is proposing to delete rules that were previously incorporated by reference from the applicable California SIP. However, we are also proposing to include in a final EPA rule regulatory text that reinstates incorporation by reference of certain rules that were previously incorporated by reference but deleted in error, and regulatory text that includes incorporation by reference of rules not previously incorporated. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to reinstate incorporation by reference Lake County AQMD Table I (Agencies Designated to Issue Agricultural Burning Permits), Table II (Daily Quota of Agricultural Material that May Be Burned by Watershed), Table III (Guides for Estimating Dry Weights of Several California Fuel Types), and Table IV (Particulate Matter Emissions Standard for Process Units and Process Equipment) and Nevada County APCD Rule 404 (Upset Conditions, Breakdown or Scheduled Maintenance) (excluding paragraph (D)) and to incorporate by reference Eastern Kern APCD Rules 108 (Stack Sampling) and 417 (Agricultural and Prescribed Burning), El Dorado County AQMD Rule 1000.1 (Emission Statement Waiver) and Northern Sierra AQMD Rules 212 (Process Weight Table) and 213 (Storage of Gasoline Products), as described in section IV of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. 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 corrects errors in previous rulemakings 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Authority: 2 U.S.C. 7401 *et seq.*

Dated: August 8, 2018.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–18408 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA–R06–OAR–2016–0611; FRL–9982–50—Region 6]

Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan: Proposal of Best Available Retrofit Technology (BART) and Interstate Transport Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 17, 2017, the EPA published a final rule partially approving the 2009 Texas Regional Haze State Implementation Plan (SIP) submission and promulgated a Federal Implementation Plan (FIP) for Texas to address certain outstanding Clean Air Act (CAA) regional haze requirements. Because the EPA believes that certain aspects of the final rule could benefit from additional public input, we are proposing to affirm our October 2017 SIP approval and FIP promulgation and to provide the public with an opportunity to comment on relevant aspects, as well as other specified related issues.

DATES: Comments must be received on or before October 26, 2018.

Public Hearing:

We are holding an information session, for the purpose of providing additional information and informal discussion for our proposal. We are also holding a public hearing to accept oral comments into the record:

Date: Wednesday, September 26, 2018

Time: Information Session: 1:30 p.m.–3:30 p.m.

Public hearing: 4:00 p.m.–8:00 p.m. (including a short break)

Location: Joe C. Thompson Conference Center (on the University of Texas (UT) Campus), Room 1.110, 2405 Robert Dedman Drive, Austin, Texas 78712.

For additional logistical information regarding the public hearing please see the **SUPPLEMENTARY INFORMATION** section of this action.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2016–0611, at *http://www.regulations.gov* or via email to *R6_TX-BART@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

The Texas regional haze SIP is also available online at: *https://www.tceq.texas.gov/airquality/sip/bart/haze_sip.html.* It is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Jennifer Huser, Air Planning Section (6MM–AA), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–7347; email address *Huser.Jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Joe C. Thompson Conference Center parking is adjacent to the building in Lot 40, located at the intersection of East Dean Keeton Street and Red River Street. Additional parking is available at the Manor Garage, located at the intersection of Clyde Littlefield Drive and Robert Dedman Drive. If arranged in advance, the UT Parking Office will allow buses to park along Dedman Drive near the Manor Garage for a fee.

The public hearing will provide interested parties the opportunity to present information and opinions to us concerning our proposal. Interested parties may also submit written comments, as discussed in the proposal. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. We will not respond to comments during the public hearing. When we publish our final action, we will provide written responses to all significant oral and written comments received on our proposal. To provide opportunities for questions and discussion, we will hold an information session prior to the public hearing. During the information session, EPA staff will be available to informally answer questions on our proposed action. Any comments made to EPA staff during an information session must still be provided orally during the public hearing, or formally in writing within 30 days after completion of the hearings, in order to be considered in the record.

At the public hearing, the hearing officer may limit the time available for each commenter to address the proposal to three minutes or less if the hearing officer determines it to be appropriate. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. Any person may provide written or oral

comments and data pertaining to our proposal at the public hearing. Verbatim English—language transcripts of the hearing and written statements will be included in the rulemaking docket.

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I. Background

A. Overview of the Purpose of Today's Action

The following overview demonstrates the lengthy and difficult path the regional haze program has taken in Texas. EPA maintains that States are in the best position to provide flexibility and protect the environment while maintaining a strong economic engine. As outlined in more detail below, the Texas 2009 Regional Haze SIP relied on the defunct Clean Air Interstate Rule (CAIR) to satisfy the Best Available Retrofit Technology (BART) requirements. The D.C. Circuit remanded CAIR to the EPA in 2009, prior to the state's submission. The CAIR requirements were replaced by the Cross-State Air Pollution Rule (CSAPR) in 2011. Because of legal challenges, CSAPR in its current form does not provide SO_2 emission reductions in Texas and, as such, cannot satisfy the BART requirements for SO_2 at electrical generating units (EGUs) in Texas. Nonetheless, Texas has not provided a replacement SIP submission to address BART for SO_2 at its EGUs. Because of court deadlines and without a Texas SIP, EPA has been forced to adopt a Federal Implementation Plan (FIP) to address BART.

When EPA proposed a source-specific BART FIP in January 2017,[1] Texas, along with other commenters, suggested to EPA the concept of a trading program. In close cooperation with Texas, EPA developed an SO_2 trading program that we included in our October 2017 final rule[2] and adopted in time to meet our court-ordered deadline. Texas entered an agreement with EPA to provide a SIP-based trading program that would replace the FIP.[3] However, in the months since EPA promulgated the trading program FIP, Texas has not met its commitment to provide a SIP, leaving it without the benefits a State program could bring and leaving EPA little choice but to continue to implement a federal plan.

On December 15, 2017, EPA received a petition for reconsideration of the October 2017 rule requesting that the Administrator reconsider certain aspects of the FIP related to the intrastate trading program promulgated to address the SO_2 BART requirement for EGUs. As stated in our letter in response to that petition dated April 30, 2018, we believe certain specific aspects of the federal plan can benefit from further public comment. Therefore, in this action, we are soliciting comment on: (1) The issuance of a FIP establishing an intrastate trading program capping emissions of SO_2 from certain EGUs in Texas and our determination that this program meets the requirements for an alternative to BART for SO_2; (2) our finding that the BART alternatives in the October 2017 rulemaking to address SO_2 and NO_X BART at Texas' EGUs result in emission reductions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility for a number of NAAQS issued between 1997 and 2010; and (3) our approval of Texas' SIP determination that no sources are subject to BART for $PM_{2.5}$. We are also soliciting comment on the specific issues of whether recent shutdowns of sources included in the trading program and the merger of two owners of affected EGUs should impact the allocation methodology for certain SO_2 allowances. EPA will consider these comments in the context of our proposal to affirm the SO_2 trading program FIP. We believe that this action, which provides the public an opportunity to provide input on the issues raised in the December 15, 2017 petition for reconsideration of the October 2017 final rule, resolves the basis for that petition.

While soliciting comment on the above three proposed actions, EPA also invites comment on additional issues that could inform our decision making with regard to the SO_2 BART obligations for Texas. First, we seek input on whether SO_2 BART would be better addressed through a source-by-source approach (source-specific BART), the October 2017 SO_2 trading program, or some other appropriate BART alternative. Second, EPA requests comment on whether a SIP-based program would serve Texas better than a FIP. Third, we request public input on whether and how the SO_2 trading program finalized in the October 2017 final rule addresses the long-term strategy and reasonable progress requirements for Texas.

We note that, should we decide to act pursuant to any comments we receive on these additional policy questions, we may initiate a new rulemaking process with a new proposed rule.

B. Regional Haze

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and emit $PM_{2.5}$ (*e.g.,* sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and its precursors (*e.g.,* SO_2, NO_X, and, in some cases, ammonia (NH_3) and volatile organic compounds (VOCs)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that can be seen. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects, such as acid deposition and eutrophication.[4]

In Section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas. On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is

[1] 82 FR 912 (Jan. 4, 2017).

[2] 82 FR 48324 (Oct. 17, 2017).

[3] See Texas Regional Haze MOA with TCEQ dated August 14, 2017 at docket document number EPA–R06–OAR–2016–0611–0051.

[4] Additional information regarding the regulatory background of the CAA and regional haze requirements can be found in our January 2017 notice of proposed rulemaking for Texas Regional Haze. (82 FR 917, January 4, 2017).

''reasonably attributable'' to a single source or small group of sources, *i.e.,* ''reasonably attributable visibility impairment.'' These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved. Congress added section 169B to the CAA in 1990 to address regional haze issues, and EPA promulgated regulations addressing regional haze in 1999. The Regional Haze Rule revised the existing visibility regulations to add provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas.

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often under-controlled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal by controlling emissions of pollutants that contribute to visibility impairment, including a requirement that certain categories of existing major stationary sources [5] built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' (BART). Larger ''fossil-fuel fired steam electric plants'' are included among the BART source categories. Under the Regional Haze Rule, states are directed to conduct BART determinations for ''BART-eligible'' sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Following the compilation of the BART-eligible sources, the sources are examined to determine whether these sources cause or contribute to visibility impairment in nearby Class I areas.[6] For those sources that are not reasonably anticipated to cause or contribute to any visibility impairment in a Class I area, a BART determination is not required. Those sources are determined to be not subject-to-BART. Sources that are reasonably anticipated to cause or contribute to any visibility impairment in a Class I area are determined to be subject-to-BART. For each source subject to BART, 40 CFR 51.308(e)(1)(ii)(A) requires that states (or EPA, in the case of a FIP) identify the level of control representing BART after considering the factors set out in CAA section 169A(g). The evaluation of BART for EGUs that are located at fossil-fuel-fired power plants having a generating capacity in excess of 750 megawatts must follow the ''Guidelines for BART Determinations Under the Regional Haze Rule'' at appendix Y to 40 CFR part 51 (hereinafter referred to as the ''BART Guidelines''). Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or alternative program (sometimes referred to as a ''BART alternative'') as long as the alternative provides greater reasonable progress towards improving visibility than BART. 40 CFR 51.308(e)(2) specifies how a state must conduct the demonstration to show that an alternative program will achieve greater reasonable progress than the installation and operation of BART. 40 CFR 51.308(e)(2)(i)(E) requires a determination, under specific criteria laid out at 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence, that the trading program or other alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources. Finally, 40 CFR 51.308(e)(4) states that states participating in a Cross-State Air Pollution Rule (CSAPR) trading program need not require BART-eligible fossil fuel-fired steam electric plants to install, operate, and maintain BART for the pollutant covered by that trading program.

Under section 110(c) of the CAA, whenever we disapprove a mandatory SIP submission in whole or in part, we are required to promulgate a FIP within two years unless the state corrects the deficiency and we approve the new SIP submittal.

C. Interstate Transport of Pollutants That Affect Visibility

Section 110(a) of the CAA directs states to submit SIPs that provide for the implementation, maintenance, and enforcement of each NAAQS, which is commonly referred to as an infrastructure SIP. Among other things, CAA section 110(a)(2)(D)(i)(II) requires that SIPs contain adequate provisions to prohibit interference with measures required to protect visibility in other states. This is commonly referred to as ''interstate visibility transport.'' States must submit infrastructure SIPs addressing interstate visibility transport, among other requirements, which are due to the EPA within three years after the promulgation of a new or revised NAAQS (or within such shorter period as we may prescribe). A state's failure to submit a complete, approvable SIP for interstate visibility transport creates an obligation for the EPA to promulgate a FIP to address this requirement.

D. Previous Actions Related to Texas Regional Haze

On March 31, 2009, Texas submitted a regional haze SIP (the 2009 Regional Haze SIP) to the EPA that included reliance on Texas' participation in trading programs under the Clean Air Interstate Rule (CAIR) as an alternative to BART for SO_2 and NO_X emissions from EGUs.[7] This reliance was consistent with the EPA's regulations at the time that Texas developed its 2009 Regional Haze SIP,[8] but at the time that Texas submitted this SIP to the EPA, the D.C. Circuit had remanded CAIR (without vacatur).[9] The court left CAIR and our CAIR FIPs in place in order to ''temporarily preserve the environmental values covered by CAIR'' until we could, by rulemaking, replace CAIR consistent with the court's opinion. The EPA promulgated CSAPR to replace CAIR in 2011 [10] (and revised it in 2012).[11] CSAPR established FIP requirements for a number of states, including Texas, to address the states' interstate transport obligation under CAA section 110(a)(2)(D)(i)(I). CSAPR addresses interstate transport of fine particulate matter and ozone by requiring affected EGUs in these states to participate in the CSAPR trading programs and establishes emissions budgets that apply to the EGUs' collective annual emissions of SO_2 and NO_X, as well as emissions of NO_X during ozone season.[12]

Following issuance of CSAPR, the EPA determined that CSAPR would achieve greater reasonable progress towards improving visibility than would source-specific BART in CSAPR states (a determination often referred to as ''CSAPR better than BART'').[13] In the

[5] *See* 42 U.S.C. 7491(g)(7) (listing the set of ''major stationary sources'' potentially subject-to-BART).

[6] See 40 CFR part 51, Appendix Y, III, How to Identify Sources ''Subject to BART''.

[7] CAIR required certain states, including Texas, to reduce emissions of SO_2 and NO_X that significantly contribute to downwind nonattainment of the 1997 NAAQS for fine particulate matter and ozone. See 70 FR 25152 (May 12, 2005).

[8] *See* 70 FR 39104 (July 6, 2005).

[9] *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), *as modified,* 550 F.3d 1176 (D.C. Cir. 2008).

[10] 76 FR 48207 (Aug. 8, 2011).

[11] CSAPR was amended three times in 2011 and 2012 to add five states to the seasonal NO_X program and to increase certain state budgets. 76 FR 80760 (December 27, 2011); 77 FR 10324 (February 21, 2012); 77 FR 34830 (June 12, 2012).

[12] Ozone season for CSAPR purposes is May 1 through September 30.

[13] 77 FR 33641 (June 7, 2012). This determination was recently upheld by the D.C. Circuit. (*See Util.*

same action, we revised the Regional Haze Rule to allow states that participate in the CSAPR trading programs to rely on such participation in lieu of requiring EGUs in the state to install BART controls.

In the same action that EPA determined that states could rely on CSAPR to address the BART requirements for EGUs, EPA issued a limited disapproval of a number of states' regional haze SIPs, including the 2009 Regional Haze SIP submittal from Texas, due to the states' reliance on CAIR, which had been replaced by CSAPR.[14] The EPA did not immediately promulgate a FIP to address those aspects of the 2009 Regional Haze SIP submittal subject to the limited disapproval of Texas' regional haze SIP to allow more time for the EPA to assess the remaining elements of the 2009 Texas SIP submittal.

In December 2014, we proposed an action to address the remaining regional haze obligations for Texas.[15] In that action, we proposed, among other things, to rely on our CSAPR FIP subjecting Texas to participation in the CSAPR trading programs to satisfy the NO_X and SO_2 BART requirements for Texas' EGUs; we also proposed to approve the portions of the 2009 Regional Haze SIP addressing PM BART requirements for the state's EGUs. Before that rule was finalized, however, the D.C. Circuit issued a decision on a number of challenges to CSAPR, denying most claims, but remanding the CSAPR SO_2 and/or seasonal NO_X emissions budgets of several states to the EPA for reconsideration, including the Phase 2 SO_2 and seasonal NO_X budgets for Texas.[16] Due to the uncertainty arising from the remand of Texas' CSAPR budgets, we did not finalize our December 2014 proposal to rely on CSAPR to satisfy the SO_2 and NO_X BART requirements for Texas EGUs.[17] Additionally, because our proposed action on the PM BART provisions for EGUs was dependent on how SO_2 and NO_X BART were satisfied, we did not take final action on the PM BART elements of the 2009 Texas' Regional Haze SIP. In January 2016, we finalized action on the remaining aspects of the December 2014 proposal. This final action disapproved Texas' Reasonable Progress Goals for the Big Bend and Guadalupe Mountains Class I areas in Texas, Texas's reasonable progress analysis and Texas's long-term strategy. EPA promulgated a FIP establishing a new long-term strategy that consisted of SO_2 emission limits for 15 coal fired EGUs at eight power plants. That rulemaking was challenged, however, and in July 2016, the Fifth Circuit granted the petitioners' motion to stay the rule pending review. In December 2016, following the submittal of a request by the EPA for a voluntary remand of the parts of the rule under challenge, the Fifth Circuit Court of Appeals remanded the rule in its entirety.[18]

On October 26, 2016, the EPA finalized an update to CSAPR to address the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone NAAQS (CSAPR Update).[19] The EPA also responded to the D.C. Circuit's remand of certain CSAPR seasonal NO_X budgets in that action. As to Texas, the EPA withdrew Texas' seasonal NO_X budget finalized in CSAPR to address the 1997 ozone NAAQS. However, in that same action, the EPA promulgated a FIP with a revised seasonal NO_X budget for Texas to address the 2008 ozone NAAQS.[20] Accordingly, Texas remains subject to CSAPR seasonal NO_X requirements.

On November 10, 2016, in response to the D.C. Circuit's remand of Texas's CSAPR SO_2 budget, we proposed to withdraw the FIP provisions that required EGUs in Texas to participate in the CSAPR trading programs for annual emissions of SO_2 and NO_X.[21] We also proposed to reaffirm that CSAPR continues to provide for greater reasonable progress than BART following our actions taken to address the D.C. Circuit's remand of Texas' SO_2 budget and the CSAPR emissions budgets of several additional states. On September 29, 2017, we finalized the withdrawal of the FIP provisions for annual emissions of SO_2 and NO_X for EGUs in Texas[22] and affirmed our proposed finding that the EPA's 2012 analytical demonstration remains valid and that participation in the CSAPR trading programs as they now exist meets the Regional Haze Rule's criteria for an alternative to BART.

On January 4, 2017, we proposed a FIP to address the EGU BART requirements for Texas' EGUs. In that action, we proposed to replace the 2009 Regional Haze SIP's reliance on CAIR with reliance on our CSAPR FIP to address the NO_X BART requirements for EGUs.[23] This portion of our proposal was based on the CSAPR Update and our separate November 10, 2016 proposed finding that the EPA's actions in response to the D.C. Circuit's remand would not adversely impact our 2012 demonstration that participation in the CSAPR trading programs meets the Regional Haze Rule's criteria for alternatives to BART (sometimes referred to as a finding that ''CSAPR is still better than BART'').[24] We noted that we could not finalize this portion of our proposed FIP to address the NO_X BART requirements for EGUs unless and until we finalized our proposed finding that CSAPR was still better than BART.

Our January 4, 2017 proposed action addressing the BART requirements for Texas EGUs acknowledged that because Texas would no longer be participating in the CSAPR program for SO_2, and thus would no longer be eligible to rely on participation in CSAPR as an alternative to source-specific EGU BART for SO_2 under 40 CFR 51.308(e)(4), there were BART requirements that were left unfulfilled with respect to Texas's EGU emissions of SO_2 that would need to be fulfilled by either an approved SIP or an EPA-issued FIP that satisfied the BART requirements under 40 CFR 51.308(e)(1) or constituted a viable BART alternative under 40 CFR 51.308(e)(2) for those emissions. EPA proposed to satisfy these requirements through a BART FIP, entailing the identification of BART-eligible EGU sources, screening of sources to identify subject-to-BART sources, and source-by-source determinations of SO_2 BART controls as appropriate. For those EGU sources we proposed to find subject to BART, we proposed to promulgate source-specific SO_2 requirements. We proposed SO_2 emission limits on 29 EGUs located at 14 facilities.

In the January 2017 proposal, we also proposed to disapprove the portion of the 2009 Regional Haze SIP that made BART determinations for PM from EGUs, on the grounds that the demonstration in the 2009 Texas Regional Haze SIP relied on underlying assumptions as to how the SO_2 and NO_X BART requirements for EGUs were being met that were no longer valid with the proposed source-specific SO_2 requirements.[25] In place of these

Air Regulatory Grp. v. *EPA,* 885 F.3d 714 (D.C. Cir. 2018)).

[14] *Id.*

[15] 79 FR 74818 (Dec. 16, 2014).

[16] *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 132 (D.C. Cir. 2015).

[17] 81 FR 296 (Jan. 5, 2016).

[18] *Texas* v. *EPA,* 829 F.3d 405 (5th Cir. 2016).

[19] 81 FR 74504 (Oct. 26, 2016).

[20] 81 FR 74504, 74524–25.

[21] 81 FR 78954.

[22] 82 FR 45481 (Sept. 29, 2017). Texas continues to be subject to portions of our CSAPR FIP, under which it participates in CSAPR for ozone season NO_X.

[23] 82 FR 912, 914–15 (Jan. 4, 2017).

[24] 81 FR 74504 (Nov. 10, 2016).

[25] In the 2009 Regional Haze Texas SIP, for EGU BART, Texas' BART EGUs' emissions of both SO_2 and NO_X were covered by participation in trading programs, which allowed Texas to conduct a

Continued

determinations, we proposed to promulgate source-specific PM BART requirements based on existing practices and control capabilities for those EGUs that we proposed to find subject to BART. Previously, we had proposed to approve the EGU BART determinations for PM in the 2009 Texas Regional Haze SIP, and this proposal had never been withdrawn.[26] At that time, CSAPR was an appropriate alternative for SO_2 and NO_X BART for EGUs. The 2009 Texas Regional Haze SIP included a pollutant-specific screening analysis for PM to demonstrate that Texas EGUs were not subject to BART for PM. In a 2006 guidance document,[27] the EPA stated that pollutant-specific screening can be appropriate where a state is relying on a BART alternative to address both NO_X and SO_2 BART. However, in the January 2017 proposal, we proposed to disapprove the PM BART determination since SO_2 BART was no longer addressed by a BART alternative. In our October 2017 FIP, we approved the 2009 Regional Haze SIP PM BART determination because the SO_2 requirements were addressed by a BART alternative, making the original pollutant-specific screening demonstration once again an appropriate approach.

In our October 2017 rulemaking, we finalized our January 2017 proposed determination that Texas' participation in CSAPR's trading program for ozone-season NO_X qualifies as an alternative to source-specific NO_X BART. We also determined that the SO_2 BART requirements for all BART-eligible coal-fired units and a number of BART-eligible gas- or gas/fuel oil-fired units are satisfied by a BART alternative for SO_2—specifically, an intrastate trading program addressing emissions of SO_2 from certain EGUs in Texas. Finally, we approved the 2009 Regional Haze SIP's determination that Texas' EGUs are not subject to BART for PM. The remaining BART-eligible EGUs not covered by the SO_2 BART alternative were previously determined to be not subject to BART based on methods using model plants and CALPUFF[28] modeling as described in our proposed rule and BART Screening technical support document (TSD).[29] With respect to visibility transport obligations, we determined that the BART alternative to address SO_2 and Texas' participation in CSAPR's trading program for ozone-season NO_X to address NO_X BART at Texas' EGU fully addresses the obligations for six NAAQS.

As explained above, EPA received a petition for reconsideration of issues related to the SO_2 intrastate trading program promulgated in the October 2017 rule. As stated in our letter in response to that petition dated April 30, 2018, we believe certain specific aspects of the federal plan can benefit from further public comment. Therefore, in this notice, we are proposing to affirm certain aspects of our SIP approval and of the FIP, and to provide the public with an opportunity to comment on those particular aspects, as well as other specified related issues.

II. Summary of This Proposed Action

In this notice, we are taking comment on the following elements: (1) This proposal to affirm the October 2017 FIP establishing an intrastate trading program addressing emissions of SO_2 from certain EGUs in Texas as a BART alternative and the determination that this program satisfies the requirements for BART alternatives; (2) this proposal to affirm the finding that the BART alternatives in the October 2017 rulemaking to address SO_2 and NO_X BART at Texas' EGUs result in emission reductions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility for a number of NAAQS issued between 1997 and 2010; and (3) this proposal to affirm our October 2017 approval of Texas' SIP determination that no sources are subject to BART for PM. We are not soliciting comment on our final determination that CSAPR addresses the NO_X BART requirements for EGUs in Texas.[30]

A. Regional Haze

1. SO_2 BART

In our January 2017 proposed action, we proposed BART limits based on our source-specific BART determinations for certain EGUs in Texas. We proposed this approach to address the SO_2 BART requirements following the remand from the D.C. Circuit in *EME Homer City II*[31] of certain CSAPR emission budgets that created uncertainty regarding our proposed reliance on CSAPR to satisfy the SO_2 BART requirements for EGUs in Texas. However, based on comments we received in response to our January 2017 proposal, including views expressed by Texas, we finalized, as a BART alternative, a program establishing emission caps using CSAPR allocations for certain EGUs in Texas in our October 2017 final action. The EPA determined that, because this BART alternative would result in SO_2 emissions from Texas EGUs similar to emissions anticipated under CSAPR, the alternative is an appropriate approach for addressing Texas' SO_2 BART obligations and, in the context of the operation of the CSAPR ozone-season NO_X trading program and the operation of the CSAPR annual NO_X and SO_2 trading programs, will achieve greater reasonable progress than BART towards restoring visibility, consistent with the June 2012 ''CSAPR better than BART'' and September 2017 ''CSAPR still better than BART'' determinations. In today's proposed action, we are proposing to affirm our determination that the intrastate trading program is an appropriate SO_2 BART alternative for EGUs in Texas.

The BART alternative has been designed to achieve SO_2 emission levels that are functionally equivalent to those projected for Texas' participation in the original CSAPR program. The BART alternative applies the CSAPR allowance allocations for SO_2 to all BART-eligible coal-fired EGUs, several additional coal-fired EGUs, and several BART-eligible gas-fired and gas/fuel oil-

screening analysis of the visibility impacts from PM emissions in isolation. However, modeling on a pollutant-specific basis for PM is appropriate only in the narrow circumstance of reliance on BART alternatives to satisfy both NO_X and SO_2 BART. Due to the complexity and nonlinear nature of atmospheric chemistry and chemical transformation among pollutants, EPA has not recommended performing modeling on a pollutant-specific basis to determine whether a source is subject to BART, except in the unique situation described above. See discussion in Memorandum from Joseph Paisie to Kay Prince, ''Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,'' July 19, 2006.

[26] 79 FR 74817, 74853–54 (Dec. 16, 2014).

[27] *See* discussion in Memorandum from Joseph Paisie to Kay Prince, ''Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,'' July 19, 2006.

[28] CALPUFF (California Puff Model) is a multi-layer, multi-species non-steady-state puff dispersion modeling system that simulates the effects of time- and space-varying meteorological conditions on pollutant transport, transformation, and removal. CALPUFF is intended for use in assessing pollutant impacts at distances greater than 50 kilometers to several hundreds of kilometers. It includes algorithms for calculating visibility effects from long range transport of pollutants and their impacts on Federal Class I areas. EPA previously approved the use of the CALPUFF model in BART related analyses (40 CFR part 51 Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations; Final Rule; FR Vol. 70 No. 128 Pages 39104—39172; July 6, 2005). For instructions on how to download the appropriate model code and documentation that are available from Exponent (Model Developer/Owner) at no cost for download, see EPA's website: *https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models#calpuff.*

[29] See document at docket identification number EPA–R06–OAR–0611–0005.

[30] For additional information regarding the determination that CSAPR addresses the NO_X BART requirements for EGUs in Texas, please see our January 2017 proposal, and our October 2017 final action, including response to comments. These actions are included in the docket for this action.

[31] *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 132 (D.C. Cir. 2015).

fired EGUs. In addition to being a sufficient alternative to BART, we are proposing to affirm our October 2017 determination that the BART alternative secures reductions consistent with visibility transport requirements and is part of the long-term strategy to meet the reasonable progress requirements of the Regional Haze Rule.

We propose to affirm that the combination of the source coverage for this program, the total allocations for EGUs covered by the program, and recent and foreseeable emissions trends from those EGUs both covered and not covered by the program will result in future EGU emissions in Texas that are similar to or less than the SO_2 emission levels forecast in the 2012 better-than-BART demonstration for Texas EGU emissions assuming CSAPR participation. We propose to affirm that the intrastate trading program meets the requirements for a BART alternative and therefore satisfies the SO_2 BART requirements for the BART-eligible coal-fired EGUs and gas- and gas/fuel oil-fired EGUs in the following table. See Section IV.B for a discussion on identification of sources covered by the program.

TABLE 1—TEXAS EGUS SUBJECT TO THE FIP SO_2 TRADING PROGRAM

Owner/operator	Units	BART-eligible
AEP	Welsh Power Plant Unit 1	Yes.
	Welsh Power Plant Unit 2	Yes.
	Welsh Power Plant Unit 3	No.
	H W Pirkey Power Plant Unit 1	No.
	Wilkes Unit 1*	Yes.
	Wilkes Unit 2*	Yes.
	Wilkes Unit 3*	Yes.
CPS Energy	JT Deely Unit 1	Yes.
	JT Deely Unit 2	Yes.
	Sommers Unit 1*	Yes.
	Sommers Unit 2*	Yes.
Dynegy/Vistra	Coleto Creek Unit 1	Yes.
LCRA	Fayette/Sam Seymour Unit 1	Yes.
	Fayette/Sam Seymour Unit 2	Yes.
Vistra/Luminant	Big Brown Unit 1	Yes.
	Big Brown Unit 2	Yes.
	Martin Lake Unit 1	Yes.
	Martin Lake Unit 2	Yes.
	Martin Lake Unit 3	Yes.
	Monticello Unit 1	Yes.
	Monticello Unit 2	Yes.
	Monticello Unit 3	Yes.
	Sandow Unit 4	No.
	Stryker ST2*	Yes.
	Graham Unit 2*	Yes.
NRG	Limestone Unit 1	No.
	Limestone Unit 2	No.
	WA Parish Unit WAP4*	Yes.
	WA Parish Unit WAP5	Yes.
	WA Parish Unit WAP6	Yes.
	WA Parish Unit WAP7	No.
Xcel	Tolk Station Unit 171B	No.
	Tolk Station Unit 172B	No.
	Harrington Unit 061B	Yes.
	Harrington Unit 062B	Yes.
	Harrington Unit 063B	No.
El Paso Electric	Newman Unit 2*	Yes.
	Newman Unit 3*	Yes.
	Newman Unit 4*	Yes.

*Gas-fired or gas/fuel oil-fired units.

This BART alternative includes all BART-eligible coal-fired units in Texas, additional coal-fired EGUs, and some additional BART-eligible gas and gas/fuel oil-fired units. Moreover, we propose to affirm that the differences in source coverage between CSAPR and this BART alternative are either not significant or, in fact, work to demonstrate the relative stringency of this BART alternative as compared to CSAPR. This relative stringency is demonstrated in the following points:

A. Covered sources under the BART alternative in this FIP represent 89% [32] of all SO_2 emissions from all Texas EGUs in both 2016 and 2017, and approximately 85% of CSAPR allocations for existing units in Texas.

B. The remaining 11% (100 minus 89) of 2016 and 2017 emissions from sources not covered by the BART alternative come from gas units that rarely burn fuel oil or from coal-fired units that on average are better controlled for SO_2 than the covered sources and generally are less relevant to visibility impairment. As such, any shifting of generation to non-covered sources, as might occur if a covered source were to reduce its operation in order to remain within its SO_2 emissions allowance allocation, would

[32] In 2016, EGUs included in the program emitted 218,291 tons of SO_2, and other EGUs emitted 27,446 tons from other EGUs (11.1% of the total emitted by Texas EGUs). In 2017, sources included in the program emitted 245,870 tons of SO_2, and other EGUs emitted 30,096 (10.9%).

result in fewer emissions to generate the same amount of electricity.

C. Furthermore, the non-inclusion of a large number of gas-fired units that rarely burn fuel oil reduces the amount of available allowances for such units that would typically and collectively be expected to use only a fraction of CSAPR emissions allowances. Many of these sources typically emit at levels much lower than their allocation level. Should sources not participating in the program choose to opt in, thereby increasing the number of available allowances, this would serve to make the program more closely resemble CSAPR.

D. The BART alternative does not allow purchasing of allowances from out-of-state sources. Emission projections under CAIR and CSAPR showed that Texas sources were anticipated to purchase allowances from out-of-state sources.[33] [34]

Based on these points, and applying as appropriate the principles of the rules and program design of CSAPR to a program designed to apply to and for Texas, we are proposing to affirm our earlier determinations regarding SO_2 BART coverage for EGUs by means of a BART alternative under an intrastate trading program. In 2014, we had originally proposed that participation in a CSAPR SO_2 trading program would satisfy the SO_2 BART requirement for Texas EGUs.[35] The October 2017 final action and this proposal rely in large part on substantially similar technical elements. In contrast to the 2014 proposal, however, the intrastate trading program SO_2 BART alternative would not meet the terms of 40 CFR 51.308(e)(4), as amended, because that regulatory provision provides BART coverage for pollutants covered by the CSAPR trading program in the State. In September 2017, EPA finalized the removal of Texas from the CSAPR SO_2 trading program.[36] Instead, we are relying on the BART alternative option provided under 40 CFR 51.308(e)(2). The BART alternative we are proposing to affirm today is supported by our determination that the trading program achieves greater reasonable progress than BART. The BART alternative is designed to achieve SO_2 emission levels from Texas sources similar to the SO_2 emission levels that would have been achieved under CSAPR. Relying on a quantitative and qualitative assessment of the operation of the BART alternative, we propose to affirm our determination that emission levels under this program, and their aggregate impact on visibility, will be on average no greater than those from Texas EGUs that would have been realized from the SO_2 trading program under CSAPR. Accordingly, for materially the same reasons underlying our June 2012 ''CSAPR better than BART'' and September 2017 ''CSAPR still better than BART'' determinations, and the March 2018 court opinion [37] upholding CSAPR better than BART, the SO_2 BART FIP for Texas' BART-eligible EGUs participating in the trading program will achieve greater reasonable progress than BART with respect to SO_2.

In our January 2017 proposed action and in our October 2017 final action, we determined that the BART-eligible EGUs not participating in the program were not causing or contributing to visibility impairment, and were therefore not subject to BART. In today's proposed rule, we are not re-opening the determination that these units are not subject to BART.

The Regional Haze Rule at 40 CFR 51.308(e)(2)(iii) requires that the emission reductions from BART alternatives occur ''during the period of the first long-term strategy for regional haze.'' The SO_2 BART alternative that EPA is proposing here will be implemented beginning in January 2019, and thus emission reductions needed to meet the allowance allocations must take place by the end of 2019. For the purpose of evaluating Texas' BART alternative, the end of the period of the first long-term strategy for Texas is 2021, consistent with the requirement that states submit revisions to their long-term strategy to address the second planning period by July 31, 2021.[38] Therefore, we propose to affirm our determination that because the emission reductions from the Texas SO_2 trading program will be realized prior to that date, the necessary emission reductions will take place within the period of Texas' first long-term strategy for regional haze.

In proposing to affirm the regulatory terms and rules for implementing the BART alternative, we are mindful of the minimally required elements for a BART alternative emissions trading program that are specified in the provisions of 40 CFR 51.308(e)(2)(vi)(A)–(L). In a generic sense, these types of provisions are foundational to the establishment of allowance markets. CSAPR is a prominent example of such an allowance market, and we have designed this BART alternative guided by transferring and generally incorporating well-tested program rules and terms from the provisions of CSAPR; we have ensured that the BART alternative will conform to the provisions necessary and appropriate that are needed for an emissions trading program covered by a cap.

EPA requests comment on our proposal to affirm the October 2017 FIP establishing an intrastate trading program addressing emissions of SO_2 from certain EGUs in Texas as a BART alternative and our determinations that this program satisfies the requirements for BART alternatives.

2. PM BART

The 2009 Texas Regional Haze SIP included a pollutant-specific screening analysis for PM to demonstrate that Texas EGUs were not subject to BART for PM. This approach was consistent with a 2006 guidance document in which the EPA stated that pollutant-specific screening can be appropriate where a state is relying on a BART alternative to address both NO_X and SO_2 BART. The majority of Texas' BART-eligible EGUs rely on BART alternatives for both SO_2 and NO_X emissions and we approved Texas' pollutant-specific screening analysis as appropriate. All of the BART-eligible sources participating in the SO_2 intrastate trading program have visibility impacts from PM alone below the subject-to-BART threshold of 0.5 deciviews (dv). Furthermore, the BART-eligible sources not participating

[33] See CAIR 2018 emission projections of approximately 350,000 tons SO_2 emitted from Texas EGUs compared to CAIR budget for Texas of 225,000 tons. See section 10 of the 2009 Texas Regional Haze SIP.

[34] For the projected annual SO_2 emissions from Texas EGUs under CSAPR See Technical Support Document for Demonstration of the Transport Rule as a BART Alternative, Docket ID No. EPA–HQ–OAR–2011– 0729–0014 (December 2011) (2011 CSAPR/BART Technical Support Document), available in the docket for this action at table 2–4. Certain CSAPR budgets were increased after promulgation of the CSAPR final rule (and the increases were addressed in the 2012 CSAPR/BART sensitivity analysis memo. See memo entitled ''Sensitivity Analysis Accounting for Increases in Texas and Georgia Transport Rule State Emissions Budgets,'' Docket ID No. EPA–HQ–OAR–2011–0729–0323 (May 29, 2012), available in the docket for this action. The increase in the Texas SO_2 budget was 50,517 tons which, when added to the Texas SO_2 emissions projected in the CSAPR + BART-elsewhere scenario of 266,600 tons, yields total potential SO_2 emissions from Texas EGUs of approximately 317,100 tons. Texas SO_2 emissions projected in the CSAPR + BART-elsewhere scenario of 266,600 tons compared to the original CSAPR budget of 243,954. The CSAPR budget for Texas after adjustments was 294,471 tons.

[35] 79 FR 74817, 74823 (December 16, 2014) (''We propose to replace Texas' reliance on CAIR to satisfy the BART requirement for EGUs with reliance on CSAPR.''). This part of the 2014 proposal was not finalized in the action taken on January 5, 2016, that has since been remanded by the Fifth Circuit Court of Appeals. 81 FR 295.

[36] 2 FR 45481 (Sept. 29, 2017). See docket EPA–HQ–OAR–2016–0598 for additional information.

[37] *Util. Air Regulatory Grp.* v. *EPA,* 885 F.3d 714 (D.C. Cir. 2018).

[38] 40 CFR 51.308(f).

in the intrastate trading program were screened out of BART for all visibility impairing pollutants. EPA requests comments on our proposal to affirm our October 2017 approval of the portion of the Texas Regional Haze SIP that determined that PM BART emission limits are not required for any Texas EGUs.

B. Interstate Transport of Pollutants That Affect Visibility

In our January 5, 2016 final action [39] we disapproved the portion of Texas' SIP revisions intended to address interstate visibility transport for six NAAQS, including the 1997 8-hour ozone and 1997 $PM_{2.5}$.[40] That rulemaking was challenged, however, and in December 2016, following a stay of the rule by the Fifth Circuit Court of Appeals in *Texas* v. *EPA* and EPA's submittal of a subsequent request by the EPA for a voluntary remand of the parts of the rule under challenge, the Fifth Circuit Court of Appeals remanded the rule in its entirety without vacatur.[41] In our October 2017 final action, we again finalized our disapproval of Texas' SIP revisions addressing interstate visibility transport under CAA section 110(a)(2)(D)(i)(II) for six NAAQS. As explained in our January 2017 proposal, Texas' infrastructure SIP revisions for these six NAAQS relied on its 2009 Regional Haze SIP, including that SIP's reliance on CAIR as an alternative to EGU BART for SO_2 and NO_X, to meet the interstate visibility transport requirements.[42] We are now proposing to affirm that Texas' participation in CSAPR to satisfy NO_X BART and our SO_2 intrastate trading program, fully addresses Texas' interstate visibility transport obligations for the following six NAAQS: (1) 1997 8-hour ozone; (2) 1997 $PM_{2.5}$ (annual and 24 hour); (3) 2006 $PM_{2.5}$ (24-hour); (4) 2008 8-hour ozone; (5) 2010 1-hour NO_2; and (6) 2010 1-hour SO_2. The basis of this proposed affirmation is our determination in the October 2017 final action that the regional haze measures in place for Texas are adequate to ensure that emissions from the State do not interfere with measures to protect visibility in nearby states because the emission reductions are consistent with the level of emissions reductions relied upon by other states during consultation. EPA requests comment on our proposal to affirm the finding that the BART alternatives in the October 2017 rulemaking result in emission reductions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility for six NAAQS issued between 1997 and 2010.

III. PM BART

In our January 2017 proposal, we proposed to disapprove Texas' technical evaluation and determination in the 2009 Regional Haze SIP that PM BART emission limits are not required for any of Texas' EGUs. That SIP included a pollutant-specific screening analysis for PM to demonstrate that Texas EGUs were not subject to BART for PM. This approach was consistent with a 2006 guidance document [43] in which the EPA stated that pollutant-specific screening can be appropriate where a state is relying on a BART alternative to address both NO_X and SO_2 BART. However, because we proposed to address SO_2 BART on a source-specific basis, Texas' pollutant-specific screening was not appropriate and we proposed source-specific PM BART emission limits consistent with existing practices and controls. In our October 2017 final action, we did not issue source-specific SO_2 BART determinations. Instead, for the majority of Texas' BART-eligible EGUs, we relied on BART alternatives for both SO_2 and NO_X emissions and approved Texas' pollutant-specific screening analysis as appropriate.[44] All of the BART-eligible sources participating in the intrastate trading program have visibility impacts from PM alone below the subject-to-BART threshold of 0.5 deciviews (dv).[45] Furthermore, the BART-eligible sources not participating in the intrastate trading program were screened out of BART for all visibility impairing pollutants. As such, we are proposing to affirm our October 2017 approval of the portion of the Texas Regional Haze SIP that determined that PM BART emission limits are not required for any Texas EGUs, and are requesting comment on this proposal.

As we explained in the January 2017 proposal, the 2009 Regional Haze SIP did not evaluate PM impacts from all BART-eligible EGUs. We evaluated and determined that this omission did not affect Texas' conclusion that no BART-eligible EGUs should be subject-to-BART for PM emissions. In our January 2017 proposal and as finalized in our October 2017 action, we identified several facilities as BART-eligible that Texas did not identify as BART eligible in its 2009 Regional Haze SIP. Specifically, we identified the following additional BART-eligible sources: Coleto Creek Unit 1 (Dynegy), Dansby Unit 1 (City of Bryan), Greens Bayou Unit 5 (NRG), Handley Units 3,4, and 5 (Exelon), Lake Hubbard Units 1 and 2 (Luminant), Plant X Unit 4 (Xcel), Powerlane Units ST1, ST2, and ST3 (City of Greenville), R W Miller Units 1, 2, and 3 (Brazos Elec.), Spencer Units 4 and 5 (City of Garland), and Stryker Creek Unit ST2 (Luminant). Based on CALPUFF modeling and a model-plant analysis, we found that all of these facilities except Coleto Creek and Stryker Creek had impacts from NO_X, SO_2, and PM below the BART screening level.[46] CALPUFF modeling showed that Stryker Creek Unit ST2 had a visibility impact of 0.786 dv from NO_X, SO_2, and PM. However, Stryker Creek Unit ST2 is now covered by a BART alternative for NO_X and SO_2, so we evaluated the visibility impact of Stryker Creek Unit ST2's PM emissions alone. The CALPUFF modeling files and spreadsheets included in our January 2017 proposal indicate that light extinction from PM (PM_{Fine} and PM_{Coarse}) is less than 1% of total light extinction at all Class I areas. Therefore, because the visibility impact attributable to PM emissions from Stryker Creek Unit ST2 would be a small fraction (roughly 1%) of the 0.786 dv aggregate impact of the unit's emissions from all pollutants, we propose to affirm our determination that the source is not subject to BART for PM under EPA's 2006 guidance, and are requesting comment on this proposal.

We also evaluated the potential visibility impact of PM emissions from

[39] 81 FR 296 (Jan. 5, 2016).

[40] Specifically, we previously disapproved the relevant portion of these Texas' SIP submittals: April 4, 2008: 1997 8-hour Ozone, 1997 $PM_{2.5}$ (24-hour and annual); May 1, 2008: 1997 8-hour Ozone, 1997 $PM_{2.5}$ (24-hour and annual); November 23, 2009: 2006 24-hour $PM_{2.5}$; December 7, 2012: 2010 NO_2; December 13, 2012: 2008 8-hour Ozone; May 6, 2013: 2010 1-hour SO_2 (Primary NAAQS). 79 FR 74818, 74821; 81 FR 296, 302.

[41] *Texas* v. *EPA,* 829 F.3d 405 (5th Cir. 2016).

[42] *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 133–34 (DC Cir. 2015) (holding that SIPs based on CAIR were unapprovable to fulfill good neighbor obligations).

[43] *See* discussion in Memorandum from Joseph Paisie to Kay Prince, ''Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,'' July 19, 2006.

[44] We originally proposed to approve Texas' screening approach in 2014, and the basis of our proposal today remains consistent with the technical evaluation we provided at that time. See 79 FR 74817, 74848 (Dec. 16, 2014).

[45] Stryker Creek is covered by CSAPR for NO_X and by the SO_2 trading program but was not included in the 2009 Regional Haze SIP. How Stryker Creek is screened out for PM is discussed below.

[46] EPA determined that Dansby, Greens Bayou, Handley, Lake Hubbard, Plant X, Powerlane, R W Miller, and Spencer are not subject to BART based on the methodologies utilizing model plants and CALPUFF modeling as described in our January 2017 proposed rule and BART Screening TSD (Available in the docket for this action, document ID EPA–R06–OAR–2016–0611–0005).

Coleto Creek Unit 1 using the CAMx modeling that Texas used for PM BART screening of its EGU sources in its 2009 Regional Haze SIP.[47] Specifically, we evaluated the modeling results for two facilities (LCRA Fayette and Sommers Deely) that have stack parameters similar to Coleto Creek's, but that are located closer to Class I areas than Coleto Creek. Texas grouped the LCRA Fayette Facility together with other sources into Group 2 of their PM screening modeling and found that this group's maximum aggregate impacts at all Class I areas were less than 0.25 deciviews (dv). Texas also modeled the City Public Service Sommers Deely Facility's PM impacts. Maximum impacts at all Class I areas from Sommers Deely were less than 0.32 dv. To extend these model results to Coleto Creek, we used the Q/D ratio where Q is the maximum annual PM emissions[48] and D is the distance to the nearest receptor in a Class I area. If the Q/D ratio of Coleto Creek is smaller than the ratios for the two modeling results (Fayette and Sommers Deely) then Coleto Creek's impacts can be estimated as less than the impacts of these source(s) and thus be screened out. We evaluated the closest Class I areas (Big Bend, Guadalupe Mountains, Carlsbad, Wichita Mountains, and Caney Creek) and the Q/D ratios were: Coleto Creek (0.59–0.86), Fayette (4.25–6.1), and Sommers Deely (6.0–10.05).[49] The Q/D ratio for Fayette is 6 to 8 times larger than for Coleto Creek, while the Q/D ratio for Sommers Deely is 9 to 11.6 times higher than for Coleto Creek. Therefore, if we were to model the PM impacts from Coleto Creek, they would be an order of magnitude smaller than the impacts from these facilities, which themselves are well below the threshold of 0.5 dv. Therefore, we propose to affirm our determination that Coleto Creek is not subject to BART for PM emissions, and are requesting comment on this proposal.

We originally proposed to approve Texas' screening approach in 2014,[50] and the basis of our proposal today remains consistent with the technical evaluation we provided at that time.

IV. The SO_2 Trading Program and Its Implications for Interstate Visibility Transport and EGU BART

The Regional Haze Rule provides each state with the flexibility to adopt an emissions trading program or other alternative measure instead of requiring source-specific BART controls, so long as the alternative measure is demonstrated to achieve greater reasonable progress than BART. In our October 2017 final rulemaking, we acknowledged the State's preference and promulgated a BART alternative for SO_2 for certain Texas EGUs. The rationale that the BART alternative would be better than BART was based on the combination of the source coverage for this program and the total allocations for EGUs covered by the program, which along with the recent and foreseeable emissions trends from EGUs both covered and not covered by the program indicate that the BART alternative will result in future EGU emissions in Texas that are similar to what was forecast in the 2012 ''CSAPR better than BART'' demonstration for Texas EGU emissions that assumed Texas would be subject to CSAPR for all pollutants participation. Today's proposed rule reiterates our finding in the October 2017 rule and affirms that it continues to support the promulgated FIP.

A. Background on the Concept of CSAPR as an Alternative to BART

In 2012, the EPA amended the Regional Haze Rule to provide that participation by a state's EGUs in a CSAPR trading program for a given pollutant qualifies as a BART alternative for those EGUs for that pollutant.[51] In promulgating this ''CSAPR-better-than-BART'' rule (also referred to as ''Transport Rule as a BART Alternative''), the EPA relied on an analytic demonstration based on an air quality modeling study[52] showing that CSAPR implementation meets the Regional Haze Rule's criteria for a demonstration of greater reasonable progress than BART. In the air quality modeling study conducted for the 2012 analytic demonstration, the EPA projected visibility conditions in affected Class I areas[53] based on 2014 emissions projections for two control scenarios and on the 2014 base case emissions projections.[54] One control scenario represents ''Nationwide BART'' and the other represents ''CSAPR+BART-elsewhere.''[55] In the base case, neither BART controls nor the EGU SO_2 and NO_X emissions reductions attributable to CSAPR were reflected. To project emissions under CSAPR, the EPA assumed that the geographic scope and state emissions budgets for CSAPR would be implemented as finalized in 2011, and the EPA's final analysis also accounted for several amendments to the CSAPR budgets that were finalized in 2012.[56] The results of that analytic demonstration based on this air quality modeling passed the two-pronged test set forth at 40 CFR 51.308(e)(3). The first prong requires that the alternative program will not cause a decline in visibility at any affected Class I area. The second prong requires that the alternative program results in improvements in average visibility across all affected Class I areas as compared to adopting source-specific BART. Together, these tests ensure that the alternative program provides for greater visibility improvement than would source-specific BART.

For purposes of the 2012 analytic demonstration that CSAPR as finalized and amended in 2011 and 2012 provides for greater reasonable progress than BART, the analysis included Texas EGUs as subject to CSAPR for SO_2 and annual NO_X (as well as ozone-season NO_X). CSAPR's emissions limitations are defined in terms of emissions ''budgets'' for the collective emissions from affected EGUs in each covered state. Sources can purchase allowances from sources outside of the state, so total projected emissions for a state may,

[47] Environ Report—''Final Report Screening Analysis of Potential BART-Eligible Sources in Texas'', September 27, 2006; ''Addendum 1—BART Exemption Screening Analysis'', Draft December 6, 2006; and ''BARTmodelingparameters V2.csv''.

[48] This is calculated by using the maximum daily PM_{10} daily emission rate, adding the maximum daily $PM_{2.5}$ emission rate and then calculating the total emissions in tons per year if this max daily rate happened every day.

[49] *See* 'Coleto_Creek_Screen_analysis.xlsx'.

[50] *See* 79 FR 74817, 74848 (Dec. 16, 2014). Docket number EPA–R06–OAR–2014–0754.

[51] 40 CFR 51.308(e)(4); *see also generally* 77 FR 33641 (June 7, 2012). The D.C. Circuit recently denied a challenge to petition seeking review of the 2012 amendments. *Utility Air Regulatory Group* v. *EPA,* 885 F.3d 714 (D.C. Cir. 2018).

[52] *See* Technical Support Document for Demonstration of the Transport Rule as a BART Alternative, Docket ID No. EPA–HQ–OAR–2011–0729–0014 (December 2011) (2011 CSAPR/BART Technical Support Document), and memo entitled ''Sensitivity Analysis Accounting for Increases in Texas and Georgia Transport Rule State Emissions Budgets,'' Docket ID No. EPA–HQ–OAR–2011–0729–0323 (May 29, 2012), both available in the docket for this action.

[53] The EPA identified two possible sets of affected Class I areas to consider for purposes of the study and found that implementation of CSAPR met the criteria for a BART alternative whichever set was considered. *See* 77 FR 33641, 33650 (June 7, 2012).

[54] For additional detail on the 2014 base case, *see* the CSAPR Final Rule Technical Support Document, available in the docket for this action.

[55] The ''Nationwide BART'' scenario reflected implementation of presumptive source-specific BART for both SO_2 and NO_X at BART-eligible EGUs nationwide. The ''CSAPR+BART-elsewhere'' reflected implementation of CSAPR in covered states and presumptive source-specific BART for each pollutant in states where CSAPR did not apply for that pollutant.

[56] CSAPR was amended three times in 2011 and 2012 to add five states to the seasonal NO_X program and to increase certain state budgets. 76 FR 80760 (Dec. 27, 2011); 77 FR 10324 (Feb. 21, 2012); 77 FR 34830 (June 12, 2012). The ''CSAPR-better-than-BART'' final rule reflected consideration of these changes to CSAPR.

in some cases, exceed the state's emission budget, but aggregate emissions from all sources in a state are expected to remain lower than or equal to the state's ''assurance level'' given the incentives that source owners have under the program to achieve that result. The final emission budget under CSAPR for Texas was 294,471 tons per year for SO_2, including 14,430 tons of allowances available in the new unit set aside.[57] The State's ''assurance level'' under CSAPR was 347,476 tons.[58] Under CSAPR, the projected SO_2 emissions from the affected Texas EGUs in the ''CSAPR + BART-elsewhere'' scenario were 266,600 tons per year. In a 2012 sensitivity analysis memo, EPA conducted a sensitivity analysis that confirmed that CSAPR would remain better-than-BART even if Texas EGU emissions increased to approximately 317,100 tons.[59]

As discussed in Section I.D, in the EPA's final response in September 2017 to the D.C. Circuit's remand in *EME Homer City II* of certain CSAPR budgets, we finalized the withdrawal of the requirements for Texas' EGUs to participate in the annual SO_2 and NO_X trading programs and also finalized our determination that the changes to the geographic scope of the CSAPR trading programs resulting from the remand response do not affect the continued validity of participation in CSAPR as a BART alternative.[60] This determination that CSAPR remains a viable BART alternative despite changes in geographic scope resulting from EPA's response to the CSAPR remand was based on a sensitivity analysis of the 2012 analytic demonstration used to support the original CSAPR as better-than-BART rulemaking. A full explanation of the sensitivity analysis is included in the remand response proposal and final rule.[61]

B. Texas SO_2 Trading Program

Texas is no longer in the CSAPR program for annual SO_2 emissions and accordingly cannot rely on CSAPR as a BART alternative for SO_2 under 51.308(e)(4).[62] Therefore, informed by the TCEQ's comments on our January 2017 proposal, in our October 2017 final action we addressed the SO_2 BART requirement for coal-fired, some gas-fired, and some gas/fuel oil-fired units under a BART alternative, which we developed to meet the demonstration requirements under 51.308(e)(2). Today we propose to affirm the demonstration in our October 2017 action and to retain the SO_2 BART alternative for coal-fired, some gas-fired, and some gas/fuel-oil fired units. We are soliciting comment on these issues, and in particular, we are soliciting comments on the proposal to affirm our determinations that the BART alternative meets each of the applicable regulatory requirements, as detailed in this section.

1. Identification of Sources Participating in the Trading Program

Under 51.308(e)(2), a State may opt to implement or require participation in an emissions trading program or other alternative measure rather than to require sources subject to BART to install, operate, and maintain BART. Such an emissions trading program or other alternative measure must achieve greater reasonable progress than would be achieved through the installation and operation of BART. At the same time, the Texas trading program should be designed so as not to interfere with the validity of existing SIPs in other states that have relied on reductions from sources in Texas. As discussed elsewhere, the Texas trading program is designed to provide the measures that are needed to address interstate visibility transport requirements for several NAAQS and to be part of the long-term strategy needed to meet the reasonable progress requirements of the Regional Haze Rule.[63] To meet all of these goals, the trading program must not only be inclusive of all BART-eligible sources that are treated as satisfying the BART requirements through participation in a BART alternative, but must also include additional emission sources to the extent required to ensure that the trading program as a whole can be shown to both achieve greater reasonable progress than would be achieved through the installation and operation of BART, and achieve the emission reductions assumed by other states in their own regional haze SIPs, and relied upon in establishing their reasonable progress goals for their Class I areas.

In order to identify EGUs in the trading program, we began with the list of BART-eligible EGUs for which we intended to address the BART requirements through a BART alternative. As discussed elsewhere, we determined that several BART-eligible gas-fired and gas/oil-fired EGUs are not subject-to-BART for NO_X, SO_2, and PM, and are therefore not included in the trading program. The table below lists those BART-eligible EGUs identified for inclusion in the trading program.

TABLE 2—BART-ELIGIBLE EGUS PARTICIPATING IN THE TRADING PROGRAM

Facility	Unit
Big Brown (Luminant/Vistra)	1
Big Brown (Luminant/Vistra)	2
Coleto Creek (Dynegy[64]/Vistra)	1
Fayette (LCRA)	1
Fayette (LCRA)	2
Graham (Luminant)	2

[57] Units that are subject to CSAPR but that do not receive allowance allocations as existing units are eligible for a new unit set aside (NUSA) allowance allocation. NUSA allowance allocations are a batch of emissions allowances that are reserved for new units that are regulated by the CSAPR, but were not included in the final rule allocations. The NUSA allowance allocations are removed from the original pool of regional allowances, and divided up amongst the new units, so as not to exceed the emissions cap set in the CSAPR. Each calendar year, EPA issues three pairs of preliminary and final notices of data availability (NODAs), which are determined and recorded in two ''rounds'' and are published in the **Federal Register**. In any year, if the NUSA for a given CSAPR state and program does not have enough new unit applicants after completion of the 2nd round to use up all of the set aside allowances, the remaining allowances are allocated to existing CSAPR-affected units.

[58] See 40 CFR 97.710 for state SO_2 Group 2 trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

[59] For the projected annual SO_2 emissions from Texas EGUs, *see* Technical Support Document for Demonstration of the Transport Rule as a BART Alternative, Docket ID No. EPA–HQ–OAR–2011–0729–0014 (December 2011) (2011 CSAPR/BART Technical Support Document at Table 2–4), available in the docket for this action. at table 2–4. Certain CSAPR budgets were increased after promulgation of the CSAPR final rule (and the increases were addressed in the 2012 CSAPR/BART sensitivity analysis memo. See memo entitled ''Sensitivity Analysis Accounting for Increases in Texas and Georgia Transport Rule State Emissions Budgets,'' Docket ID No. EPA–HQ–OAR–2011–0729–0323 (May 29, 2012), available in the docket for this action. The increase in the Texas SO_2 budget was 50,517 tons which, when added to the Texas SO_2 emissions projected in the CSAPR + BART-elsewhere scenario of 266,600 tons, yields total potential SO_2 emissions from Texas EGUs of approximately 317,100 tons.

[60] In addition to the withdrawal of the FIP provisions for annual emissions of SO_2 and NO_X for EGUs in Texas, the full set of actions taken to respond to the remand includes the 2016 CSAPR Update withdrawing the remanded seasonal NO_X budgets for eleven states and establishing new seasonal NO_X budgets to address a more recent ozone NAAQS for eight of those states, and the actions approving Alabama's, Georgia's, and South Carolina's SIP revisions establishing state CSAPR trading programs for SO_2 and annual NO_X to replace the corresponding federal CSAPR trading programs.

[61] 81 FR 78954 (Nov. 10, 2016), 82 FR 45481 (Sept. 29, 2017). A petition challenging the EPA's determination regarding the continued validity of participation in CSAPR as a BART alternative is currently being held in abeyance in the D.C. Circuit. Order, *Nat'l Parks Conservation Assn.* v. *EPA,* No. 17–1253 (D.C. Cir. Apr. 10, 2018).

[62] See 82 FR 45481; see also 40 CFR 52.39(c)(2), 52.2284(c)(1).

[63] EPA is not determining now that this proposal serves to also resolve the EPA's outstanding obligations with respect to reasonable progress that resulted from the Fifth Circuit's remand of our reasonable progress FIP. We intend to take future action to address the Fifth Circuit's remand.

TABLE 2—BART-ELIGIBLE EGUS PARTICIPATING IN THE TRADING PROGRAM—Continued

Facility	Unit
Harrington Station (Xcel)	061B
Harrington Station (Xcel)	062B
J T Deely (CPS Energy)	1
J T Deely (CPS Energy)	2
Martin Lake (Luminant/Vistra)	1
Martin Lake (Luminant/Vistra)	2
Martin Lake (Luminant/Vistra)	3
Monticello (Luminant/Vistra)	1
Monticello (Luminant/Vistra)	2
Monticello (Luminant/Vistra)	3
Newman (El Paso Electric)	2
Newman (El Paso Electric)	3
Newman (El Paso Electric)	4
O W Sommers (CPS Energy)	1
O W Sommers (CPS Energy)	2
Stryker Creek (Luminant/Vistra)	ST2
WA Parish (NRG)	WAP4
WA Parish (NRG)	WAP5
WA Parish (NRG)	WAP6
Welsh Power Plant (AEP)	1
Welsh Power Plant (AEP)	2
Wilkes Power Plant (AEP)	1
Wilkes Power Plant (AEP)	2
Wilkes Power Plant (AEP)	3

For a BART alternative that includes an emissions trading program, the applicability provisions must be designed to prevent any significant potential shifting within the state of production and emissions from sources in the program to sources outsidethe program.[65] Shifting would be logistically simplest among units in the same facility, because they are under common management and have access to the same transmission lines. In addition, since a coal-fired EGU to which electricity production could shift would have a relatively high SO_2 emission rate (compared to a gas-fired EGU), such shifting could also shift substantial amounts of SO_2 emissions. To prevent any significant shifting of generation and SO_2 emissions from participating sources to non-participating sources within the same facility, coal-fired EGUs that are not BART-eligible but are co-located with BART-eligible EGUs have been included in the program, with the following exceptions. While Fayette Unit 3, WA Parish Unit 8 (WAP8), and J K Spruce Units 1 and 2 were identified as coal-fired units that are not BART-eligible but are co-located with BART-eligible EGUs, these units have scrubbers installed to control SO_2 emissions such that a shift in generation from the participating units to these units would not result in a significant increase in emissions. Fayette Unit 3 has a high performing scrubber similar to the scrubbers on Fayette Units 1 and 2,[66] and has a demonstrated ability to maintain SO_2 emissions at or below 0.04 lbs/MMBtu.[67] Any shifting of generation from the participating units at the facility to Fayette Unit 3 would result in an insignificant shift of emissions. The scrubber at Parish Unit 8 maintains an emission rate four to five times lower than the emission rate of the other coal-fired units at the facility (Parish Units 5, 6, and 7) that are uncontrolled.[68] Shifting of generation from the participating units at the Parish facility to Parish Unit 8 would result in a decrease in overall emissions from the source. Similarly, J K Spruce Units 1 and 2 have high performing scrubbers and emit at emission rates much lower than the co-located BART-eligible coal-fired units (J T Deely Units 1 and 2).[69] In addition, because these units not covered by the program are on average better controlled for SO_2 than the covered sources and emit far less SO_2 per unit of energy produced, we conclude that in general, based on the current emission rates of the EGUs, should a portion of electricity generation shift to those units not covered by the program, the net result would be a decrease in overall SO_2 emissions, as these non-participating units are on average much better controlled. Relative to current emission levels, should participating units increase their emissions rates and decrease generation to comply with their allocation, emissions from non-participating units may see a small increase. Therefore, we have not included Fayette Unit 3, WA Parish Unit 8 (WAP8), and J K Spruce Units 1 and 2 in the trading program. The table below lists those coal-fired units that are co-located with BART-eligible units that have been identified for inclusion in the trading program.

TABLE 3—COAL-FIRED EGUS CO-LOCATED WITH BART-ELIGIBLE EGUS AND PARTICIPATING IN THE TRADING PROGRAM

Facility	Unit
Harrington Station (Xcel)	063B
WA Parish (NRG)	WAP7
Welsh Power Plant (AEP)	3

In addition to these sources, we also evaluated other EGUs for inclusion in the trading program based on their potential to impact visibility at Class I areas. Addressing emissions from sources with the largest potential to impact visibility is required to make progress towards the goal of natural visibility conditions and to address emissions that may otherwise interfere with measures required to protect visibility in other states. EPA, states, and Regional Planning Organizations (RPOs) have historically used a Q/D analysis to identify those facilities that have the potential to impact visibility at a Class I area based on their emissions and distance to the Class I area. Where,

1. Q is the annual emissions in tons per year (tpy), and
2. D is the nearest distance to a Class I Area in kilometers (km),

We used a Q/D value of 10 as a threshold for identification of facilities that may impact visibility at Class I areas and could be included in the trading program in order to meet the goals of achieving greater reasonable progress than BART and limiting visibility transport. We selected this value of 10 based on guidance contained in the BART Guidelines, which states:

Based on our analyses, we believe that a State that has established 0.5 deciviews as a contribution threshold could reasonably exempt from the BART review process sources that emit less than 500 tpy of NO_X or SO_2 (or combined NO_X and SO_2), as long as these sources are located more than 50 kilometers from any Class I area; and sources that emit less than 1000 tpy of NO_X or SO_2 (or combined NO_X and SO_2) that are located more than 100 kilometers from any Class I area.[70]

The approach described above corresponds to a Q/D threshold of 10. This approach has also been recommended by the Federal Land Managers' Air Quality Related Values Work Group (FLAG)[71] as an initial

[64] Dynegy purchased the Coleto Creek power plant from Engie in February 2017. Note that Coleto Creek may still be listed as being owned by Engie in some of our supporting documentation which was prepared before that sale.

[65] 40 CFR 51.308(e)(2)(vi)(A).

[66] See the BART FIP TSD, available in the docket for this action (Document Id: EPA–R06–OAR–2016–0611–0004), for evaluation of the performance of scrubbers on Fayette Units 1 and 2.

[67] The annual average emission rate for 2016 for this unit was 0.01 lb/MMBtu.

[68] Parish Units 5 and 6 are coal-fired BART-eligible units. Parish Unit 7 is not BART-eligible, but is a co-located coal-fired EGU. Unlike Parish Unit 8, these three units do not have an SO_2 scrubber installed.

[69] The annual average emission rate for 2016 for J K Spruce Units 1 and 2 was 0.03 lb/MMBtu and 0.01 lb/MMBtu, respectively. The annual average emission rate for 2016 for J T Deely Units 1 and 2 was 0.52 lb/MMBtu and 0.51 lb/MMBtu, respectively.

[70] See 40 CFR part 51, App. Y, § III (How to Identify Sources ''Subject to BART'').

[71] Federal Land Managers' Air Quality Related Values Work Group (FLAG), Phase I Report—Revised (2010).

Natural Resource Report NPS/NRPC/NRR—2010/232, October 2010. Available at *http://*

screening test to evaluate the potential impact of a new or modified source on air quality related values (AQRV) at a Class I area and screen out sources from further visibility analysis. For this purpose, a Q/D value is calculated using the combined annual emissions in tons per year of SO_2, NO_X, PM_{10}, and sulfuric acid mist (H_2SO_4) divided by the distance to the Class I area in km. A Q/D value greater than 10 for a new or modified major source seeking a permit under the Prevention of Significant Deterioration Program or Nonattainment New Source Review Program is recommended to have a Class I area AQRV analysis conducted.[72]

We considered the results of an available Q/D analysis based on 2009 emissions to identify facilities that may impact air visibility at Class I areas.[73] Table 4 summarizes the results of that Q/D analysis for EGU sources in Texas with a Q/D value greater than 10 with respect to the nearest Class I area to the source.

TABLE 4—Q/D ANALYSIS FOR TEXAS EGUS

[Q/D Greater than 10, 2009 annual emissions]

Facility	Maximum Q/D
H.W. Pirkey (AEP)	35.8
Big Brown (Luminant)	182.9
Sommers-Deely (CPS)	56.9
Coleto Creek (Dynegy)	46.0
Fayette (LCRA)	61.0
Gibbons Creek (TMPA)	30.8
Harrington Station (Xcel)	107.8
San Miguel	32.9
Limestone (NRG)	85.1
Martin Lake (Luminant)	367.4
Monticello (Luminant)	425.4
Oklaunion (AEP)	85.0
Sandow (Luminant)	63.0
Tolk Station (Xcel)	148.5
Twin Oaks	14.2
WA Parish (NRG)	84.3
Welsh (AEP)	230.1

Based on the above Q/D analysis, we identified additional coal-fired EGUs for participation in the SO_2 trading program due to their emissions, proximity to Class I areas, and potential to impact visibility at Class I areas. While Gibbons Creek is identified by the Q/D analysis, the facility does not include any BART-eligible EGUs and has installed very stringent controls such that current emissions are approximately 1% of what they were in 2009.[74] Therefore, we do not consider Gibbons Creek to have significant potential to impact visibility at any Class I area and do not include it in the trading program. The Twin Oaks facility, consisting of two units, is also identified as having a Q/D greater than 10. However, the Q/D for this facility is significantly lower than that of the other facilities, the facility does not include any BART-eligible EGUs, and the estimated Q/D for an individual unit would be less than 10. We do not consider the potential visibility impacts from these units to be significant relative to the other coal-fired EGUs in Texas with Q/Ds much greater than 10 and do not include it in the trading program. The Oklaunion facility consists of one coal-fired unit that is not BART-eligible. Annual emissions of SO_2 in 2016 from this source were 1,530 tons, less than 1% of the total annual emissions for EGUs in the state and only 988 tons in 2017. The most recent emissions from this facility are small relative to other non-BART units included in the program and we have not included Oklaunion in the trading program. Finally, San Miguel is identified as having a Q/D greater than 10. The San Miguel facility consists of one coal-fired unit that is not BART-eligible. In our review of existing controls at the facility performed as part of our action to address the remaining regional haze obligations for Texas, we found that the San Miguel facility has upgraded its SO_2 scrubber system to perform at the highest level (94% control efficiency) that can reasonably be expected based on the extremely high sulfur content of the coal being burned, and the technology currently available.[75] Since completion of all scrubber upgrades,[76] emissions from the facility on a 30-day boiler operating day[77] rolling average basis have remained below 0.6 lb/MMBtu and the 2016 annual average emission rate was 0.44 lb/MMBtu. Therefore, we found the facility is well controlled and did not include San Miguel in the trading program. Other coal-fired EGUs in Texas that are not included in the trading program either had Q/D values less than 10 based on 2009 emissions or were not yet operating in 2009. New units beginning operation after 2009 have been or would be permitted and constructed using emission control technology determined under either Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) review, as applicable, and we do not consider the potential visibility impacts from these units to be significant relative to those coal-fired EGUs participating in the program. See Table 8 and accompanying discussion in the section below for additional information on coal-fired EGUs not included in the trading program. The table below lists the additional units identified by the Q/D analysis described above as potentially significantly impacting visibility that are included in the trading program. We note that all of the other coal-fired units identified for inclusion in the trading program due to their BART-eligibility or by the fact that they are co-located with BART-eligible coal units would also be identified for inclusion in the trading program if the Q/D analysis were applied to them.

TABLE 5—ADDITIONAL UNITS IDENTIFIED FOR INCLUSION IN THE TRADING PROGRAM

Facility	Unit
H.W. Pirkey (AEP)	1
Limestone (NRG)	1
Limestone (NRG)	2
Sandow (Luminant)	4
Tolk (Xcel)	171B
Tolk (Xcel)	172B

EPA proposes to affirm our determination that the inclusion of all of these identified sources (Tables 2, 3, and 5) in an intrastate SO_2 trading program will both: (1) Achieve emission levels that are similar to those projected in the 2012 ''CSAPR better than BART'' determination from original projected participation by all Texas EGUs in the CSAPR program for trading of SO_2; and (2) achieve greater reasonable progress than BART. In addition to being a sufficient alternative to BART, the trading program secures reductions consistent with visibility transport requirements and is part of the long-term strategy to meet the reasonable progress requirements of the Regional Haze Rule.[78] The combination of the

www.nature.nps.gov/air/Pubs/pdf/flag/FLAG_2010.pdf.

[72] We also note that TCEQ utilized a Q/D threshold of 5 in its analysis of reasonable progress sources in the 2009 Texas Regional Haze SIP. See Appendix 10–1 of the 2009 Texas Regional Haze SIP.

[73] See the TX RH FIP TSD that accompanied our December 2014 proposal to address Reasonable Progress requirements 79 FR 74818 (Dec 16, 2014) ;) and 2009statesum_Q_D.xlsx, available in the docket for that action.

[74] Gibbons Creek's 2016 annual SO_2 emissions were only 138 tons compared to 11,931 tons in 2009.

[75] 79 FR 74818 (Dec. 16, 2014).

[76] San Miguel Electric Cooperative FGD Upgrade Program Update, URS Corporation, June 30, 2014. Available in the docket for our December 2014 Proposed action, 79 FR 74818 (Dec 16, 2014) as ''TX166–008–066 San Miguel FGD Upgrade Program.''

[77] A boiler operating day (BOD) is any 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time at the steam generating unit. See 70 FR 39172 (July 6, 2005).

[78] EPA is not determining at this time that this final action fully resolves the EPA's outstanding

Continued

source coverage for this program, the total allocations for EGUs covered by the program, and recent and foreseeable emissions from EGUs not covered by the program will result in future EGU emissions in Texas that on average will be no greater than what was forecast in the 2012 ''CSAPR better than BART'' demonstration for Texas EGU emissions which assumed CSAPR participation by Texas. EPA requests comment on our proposal to affirm the identification of sources participating in the trading program in the October 2017 final rule.

2. Texas SO_2 Trading Program as a BART Alternative

40 CFR 51.308(e)(2) contains the required plan elements and analyses for an emissions trading program or alternative measure designed as a BART alternative.

In our October 2017 final action, we finalized our list of all BART-eligible sources in Texas, which serves to satisfy 51.308(e)(2)(i)(A). We are not reopening the identification of BART-eligible sources, and thus are not requesting comment on this element.

This proposal includes a list of all EGUs covered by the trading program, satisfying the first requirement of 51.308(e)(2)(i)(B). All BART-eligible coal-fired units, some additional coal-fired EGUs, and some BART-eligible gas-fired and oil-and-gas-fired units are covered by the alternative program.[79] This coverage and our determinations that the BART-eligible gas-fired and oil-and-gas-fired EGUs not covered by the program are not subject-to-BART for NO_X, SO_2 and PM satisfy the second requirement of 51.308(e)(2)(i)(B).[80]

Regarding the requirements of 40 CFR 51.308(e)(2)(i)(C), we are proposing to affirm our determination that it is not necessary to make determinations of BART for each source subject to BART and covered by the program. Under that provision, the demonstration for a BART alternative does not need to include determinations of BART for each source subject to BART and covered by the program when the ''alternative measure has been designed to meet a requirement other than BART.'' The Texas trading program meets this condition, as discussed elsewhere, because it has been designed to meet multiple requirements other than BART. This BART alternative extends beyond all BART-eligible coal-fired units to include a number of additional coal-fired EGUs, and some BART-eligible gas-fired and oil-and-gas-fired units, capturing the majority of emissions from EGUs in the State, and is designed to provide the measures that are needed to address interstate visibility transport requirements for several NAAQS. This is because for all sources covered by the Texas SO_2 trading program, those sources' CSAPR allocations for SO_2 are incorporated into the BART alternative, and the BART FIP obtains more emission reductions of SO_2 and NO_X than the level of emissions reductions relied upon by other states during consultation and assumed by other states in their own regional haze SIPs, including their reasonable progress goals for their Class I areas. This BART alternative, addressing emissions from both BART eligible and non-BART eligible sources, that in combination provides for greater reasonable progress than BART, is also designed to be part of the long-term strategy needed to meet the reasonable progress requirements of the Regional Haze Rule, which remain outstanding after the remand of our reasonable progress FIP by the Fifth Circuit Court of Appeals. In our January 4, 2017 proposal on BART, we noted that the Fifth Circuit Court of Appeals has remanded without vacatur our prior action on the Texas' 2009 Texas Regional Haze SIP and part of the Oklahoma Regional Haze SIP.[81] We contemplate that future action on this remand, will bring closure to the reasonable progress requirement. For these reasons, we find that it is not necessary for us to make determinations of BART for each source subject to BART and covered by the program. In this context, 51.308(e)(2)(i)(C) provides that we may ''determine the best system of continuous emission control technology and associated emission reductions for similar types of sources within a source category based on both source-specific and category-wide information, as appropriate.'' In this action, we are relying on the determinations of the best system of continuous emission control technology and associated emission reductions for EGUs as was used in our 2012 determination that showed that CSAPR as finalized and amended in 2011 and 2012 achieves more reasonable progress than BART (''CSAPR better than BART''). These determinations were based largely on category-wide information.

Regarding the requirement of 40 CFR 51.308(e)(2)(i)(D), our analysis is that the Texas trading program will effectively limit the aggregate annual SO_2 emissions of the covered EGUs to be no higher than the sum of their allowances. The Texas SO_2 Trading Program is an intrastate cap-and-trade program for listed covered sources in the State of Texas modeled after the EPA's CSAPR SO_2 Group 2 Trading Program. Authorizations to emit SO_2, known as allowances, are allocated to affected units. As discussed elsewhere, the program includes a Supplemental Allowance Pool with additional allowances that may be allocated to subject units and sources to provide compliance assistance. The average total annual allowance allocation for all covered sources is 238,393 tons, with and an additional 10,000 tons allocated to the Supplemental Allowance pool. In addition, while the Supplemental Allowance pool may grow over time as unused supplemental allowances remain available and allocations from retired units are placed in the supplemental pool, the total number of allowances that can be allocated to sources in a control period from the supplemental pool is limited to a maximum 54,711 tons plus the amount of any allowances placed in the pool that year from retired units and corrections. Therefore, annual average emissions for the covered sources will be less than or equal to 248,393 tons, and although there will be some with year- to- year variability, that variability will be constrained by the number of banked allowances and number of allowances that can be allocated in a control period from the supplemental pool. The projected SO_2 emission reduction that will be achieved by the program, relative to any selected historical baseline year, is therefore the difference between the aggregate historical baseline emissions of the covered units and the average total annual allocation. For example, the aggregate 2014 SO_2 emissions of the covered EGUs were 309,296 tons per year, while the average total annual allocation for the covered EGUs is 248,393 tons/year.[82] Therefore, compared to 2014 emissions, the Texas trading program is projected to achieve an average reduction of approximately

obligations with respect to reasonable progress that resulted from the Fifth Circuit's remand of our reasonable progress FIP. We intend to take future action to address the Fifth Circuit's remand.

[79] See Table 3 above for list of participating units and identification of BART-eligible participating units.

[80] EPA's determination that these EGU units not covered by the program are not subject to BART is final and we are not reopening that determination here.

[81] *Texas* v. *EPA,* 829 F.3d 405 (5th Cir. 2016).

[82] Texas sources were subject to the CSAPR SO_2 trading program in 2015 and 2016 but are no longer subject to that program. We therefore select 2014 as the appropriate most recent year for this comparison.

60,903 tons per year.[83] We note that the trading program allows additional sources to opt-in to the program. Should sources choose to opt-in in the future, the average total annual allocation could increase, up to a maximum of 289,740 tons. For comparison, the aggregate 2014 SO_2 emissions of the covered EGUs including all potential opt-ins were 343,425 tons per year. Therefore, compared to 2014 emissions, the Texas trading program including all potential opt-ins is projected to achieve an average reduction of approximately 53,685 tons per year.

Regarding the requirement of 40 CFR 51.308(e)(2)(i)(E), the BART alternative EPA is proposing to affirm here is supported by our determination that, the clear weight of the evidence is that in the context of the operation of the CSAPR ozone-season NO_X trading program and the operation of CSAPR annual NO_X and SO_2 trading programs, the Texas trading program achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources.[84] The 2012 demonstration showed that CSAPR as finalized and amended in 2011 and 2012 meets the Regional Haze Rule's criteria for a demonstration of greater reasonable progress than BART. This 2012 demonstration is the primary evidence that the Texas trading program achieves greater reasonable progress than BART. However, the states participating in CSAPR are now slightly different than the geographic scope of CSAPR assumed in the 2012 analytic demonstration. In September 2017, we determined that the changes resulting from EPA's responses to the D.C. Circuit's remand in *EME Homer City II* to the emissions budgets and emissions distributions in states participating in CSAPR trading programs had no adverse impact on the 2012 determination that CSAPR participation remains better-than-BART.[85] Regarding SO_2 emissions from Texas, as detailed below, the BART alternative is projected to accomplish emission levels from Texas EGUs that are similar to the emission levels from Texas EGUs that would have been realized from participation in the SO_2 trading program under CSAPR. The changes to the geographic scope of the NO_X CSAPR programs combined with the expectation that the Texas trading program will reduce the SO_2 emissions of EGUs in Texas to levels similar to CSAPR-participation levels, despite slight differences in EGU participation between the two SO_2 programs, lead to the proposed finding here that, in the context of the operation of the CSAPR ozone-season NO_X trading program and the operation of CSAPR annual NO_X and SO_2 trading programs, the Texas BART alternative program is better-than-BART.

The differences in Texas EGU participation in CSAPR and this BART alternative are either not significant or, in some cases, work to demonstrate the relative stringency of the BART alternative as compared to CSAPR. If Texas EGUs were still required to participate in CSAPR's SO_2 trading program, a determination that CSAPR is an acceptable BART alternative for Texas EGUs would be plainly consistent with EPA's previous findings and regulations. The Texas trading program will result in average annual emissions from the covered EGUs and other EGUs in Texas that are no higher than if Texas EGUs were still required to participate in CSAPR's SO_2 trading program, and thus the clear weight of evidence is that, overall, the Texas trading program in conjunction with CSAPR will provide more reasonable progress than BART. We have considered the question of whether, in applying this portion of the Regional Haze Rule, we should take as the baseline the application of source-specific BART at the covered sources. We are proposing to interpret the rule to not require that approach in this situation, given that 51.308(e)(2)(i)C) provides for an exception (which we are exercising) to the requirement for source-specific BART determinations for the covered sources. As discussed previously, we are not making any source-specific BART determinations in this action, nor did Texas do so in its 2009 Regional Haze SIP submission.

Table 6 identifies the participating units and their proposed unit-level allocations under the Texas SO_2 trading program. These allocations are the same as under CSAPR.

TABLE 6—ALLOCATIONS FOR TEXAS EGUS SUBJECT TO THE FIP SO_2 TRADING PROGRAM

Owner/operator	Units	Allocations (tpy)
AEP	Welsh Power Plant Unit 1	6,496
	Welsh Power Plant Unit 2	7,050
	Welsh Power Plant Unit 3	7,208
	H W Pirkey Power Plant Unit 1	8,882
	Wilkes Unit 1	14
	Wilkes Unit 2	2
	Wilkes Unit 3	3
CPS Energy	JT Deely Unit 1	6,170
	JT Deely Unit 2	6,082
	Sommers Unit 1	55
	Sommers Unit 2	7
Dynegy/Vistra	Coleto Creek Unit 1	9,057
El Paso Electric	Newman Unit 2	1
	Newman Unit 3	1
	Newman Unit 4	2
LCRA	Fayette/Sam Seymour Unit 1	7,979
	Fayette/Sam Seymour Unit 2	8,019
Luminant/Vistra	Big Brown Unit 1	8,473
	Big Brown Unit 2	8,559
	Martin Lake Unit 1	12,024

[83] We note that for other types of alternative programs that might be adopted under 40 CFR 51.308(e)(2), the analysis of achievable emission reductions could be more complicated. For example, a program that involved economic incentives instead of allowances or that involved interstate allowance trading would present a more complex situation in which achievable emission reductions could not be calculated simply be comparing aggregate baseline emissions to aggregate allowances.

[84] EPA's determination that Texas' participation in CSAPR for ozone-season NO_X satisfies NO_X BART for EGUs is final and we are not reopening that determination here.

[85] 82 FR 45481 (Sept. 29, 2017).

TABLE 6—ALLOCATIONS FOR TEXAS EGUS SUBJECT TO THE FIP SO_2 TRADING PROGRAM—Continued

Owner/operator	Units	Allocations (tpy)
	Martin Lake Unit 2	11,580
	Martin Lake Unit 3	12,236
	Monticello Unit 1	8,598
	Monticello Unit 2	8,795
	Monticello Unit 3	12,216
	Sandow Unit 4	8,370
	Stryker ST2	145
	Graham Unit 2	226
NRG	Limestone Unit 1	12,081
	Limestone Unit 2	12,293
	WA Parish Unit WAP4	3
	WA Parish Unit WAP5	9,580
	WA Parish Unit WAP6	8,900
	WA Parish Unit WAP7	7,653
Xcel	Tolk Station Unit 171B	6,900
	Tolk Station Unit 172B	7,062
	Harrington Unit 061B	5,361
	Harrington Unit 062B	5,255
	Harrington Unit 063B	5,055
Total		238,393

The total annual allocation for all sources in the Texas SO_2 trading program is 238,393 tons. In addition, a Supplemental Allowance pool initially holds an additional 10,000 tons for a maximum total annual allocation of 248,393 tons. The Administrator may allocate a limited number of additional allowances from this pool to sources whose emissions exceed their annual allocation, pursuant to the provisions in the FIP. [86] Under CSAPR, the total allocations for all existing EGUs in Texas is 279,740 tons, for a total of 294,471 tons including the state new-unit set aside of 14,430 tons and the Indian country new-unit set aside.[87] As shown in Table 7, the coverage of the Texas SO_2 trading program represents 81% of the total CSAPR allocation for Texas and 85% of the CSAPR allocations for existing units. The Supplemental Allowance pool contains an additional 10,000 tons, compared to the new unit set aside (NUSA) allowance allocation under CSAPR of 14,430 tons. Examining 2016 emissions, the EGUs covered by the program represent 89% of total Texas EGU emissions.

TABLE 7—COMPARISON OF TEXAS SO_2 TRADING PROGRAM ALLOCATIONS TO PREVIOUSLY APPLICABLE CSAPR ALLOCATIONS AND TO 2016 EMISSIONS

	Annual allocations in the Texas trading program (tons per year)	% of total previously applicable CSAPR allocations (294,471 tons per year)	2016 Emissions (tons per year)	2017 Emissions (tons per year)
Texas SO_2 Trading program sources	238,393	81	218,291	245,870
Total EGU emissions			245,737	275,965
Supplemental Allowance pool	10,000	3.4		
Existing Sources not covered by trading program	No allocation	16	27,446	30,096

The remaining 11% of the total 2016 or 2017 emissions due to sources not covered by the program come from coal-fired units that on average are better controlled for SO_2 than the covered sources (26,795 tons in 2016; 29,514 tons in 2017) and gas units that rarely burn fuel oil (651 tons in 2016; 582 tons in 2017). The table below lists these coal-fired units. We note that Sandow 5A and 5B were shut down in early 2018.[88] The aggregate annual emission rate in 2016 and 2017 was 0.50 lb/MMBTU for the coal-fired units participating in the trading program compared to 0.12 lb/MMBTU for the coal-fired units not covered by the program.[89] Therefore, we expect that in general, based on the current emission rates of the EGUs, should a portion of electricity generation shift to units not covered by the program, the net result would be a decrease in overall SO_2 emissions, as these non-participating units are on average much better controlled and emit far less SO_2 per unit of energy produced.

[86] *See* 40 CFR 97.912.

[87] An Indian Country new unit set-aside is established for each state under the CSAPR that provides allowances for future new units locating in Indian Country. The Indian Country new unit set-aside for Texas is 294 tons. See 40 CFR 97.710.

[88] See letter dated February 14, 2018 from Kim Mireles of Luminant to the TCEQ requesting to cancel certain air permits and registrations for Sandow 5 Units 5A and 5B available in the docket for this action.

[89] See ''Texas EGUs 2016 and 2017 annual emissions.xlsx'' available in the docket for this action.

TABLE 8—COAL-FIRED EGUS NOT COVERED BY THE TEXAS SO_2 TRADING PROGRAM

	Previously applicable CSAPR allocation (tons)	2016 Emissions (tons)	2016 Annual average emission rate (lb/MMBtu)
Fayette/Sam Seymour Unit 3	2,955	231	0.01
Gibbons Creek Unit 1	6,314	138	0.02
JK Spruce Unit 1	4,133	467	0.03
JK Spruce Unit 2	158	151	0.01
Oak Grove Unit 1	1,665	3,334	0.11
Oak Grove Unit 2*	N/A	3,727	0.12
Oklaunion Unit 1	4,386	1,530	0.11
San Miguel Unit 1	6,271	6,815	0.44
Sandow Station Unit 5A	773	1,117	0.11
Sandow Station Unit 5B	725	1,146	0.10
Sandy Creek Unit 1*	N/A	1,842	0.09
Twin Oaks Unit 1	2,326	1,712	0.21
Twin Oaks Unit 2	2,270	1,475	0.23
WA Parish Unit WAP8	4,071	3,112	0.16
Total	36,047	26,795	.....

*Oak Grove Unit 2 and Sandy Creek Unit 1 received allocations from the new unit set aside under the CSAPR program.

The exclusion of a large number of gas-fired units that rarely burn fuel oil further limits allowances in the program as compared to CSAPR because CSAPR allocated these units allowances that are higher than their recent and current emissions. In 2016, these units emitted 651 tons of SO_2, but received allowances for over 5,000 tons. By excluding these sources from the program, those unused allowances are not available for purchase by other EGUs. We note the trading program does allow non-participating sources that previously had CSAPR allocations to opt-in to the trading program and receive allocations equivalent to their CSAPR allocation. Should some sources choose to opt-in to the program, the total number of allowances will increase by the collective amount of the allowances they receive. This will serve to increase the percentage of CSAPR allowances represented by the Texas SO_2 trading program and increase the portion of emissions covered by the program, with the result that the Texas program will more closely resemble the CSAPR program as it would have applied to Texas.

Finally, the Texas SO_2 trading program does not allow EGUs to purchase allowances from sources in other states. Under CSAPR, Texas EGUs were allowed to purchase allowances from other Group 2 states, a fact which could, and was projected in CSAPR modeling to, result in an increase in annual allowances used in the State above its budget. CSAPR also included a variability limit that was set at 18% of the State budget and an assurance level equal to the State's budget plus the variability limit. The assurance level for Texas was set at 347,476 tons. The CSAPR assurance provisions are triggered if the State's emissions for a year exceed the assurance level. These assurance provisions require some sources to surrender two additional allowances per ton beyond the amount equal to their actual emissions, depending on their emissions and annual allocation level. In effect, under CSAPR, EGUs in Texas could have emitted above the allocation if willing to pay the market price of allowances, and the cost associated with each incremental ton of emissions could triple if in the aggregate they exceeded the assurance level.

The Texas trading program, by contrast, will have 248,393 tons of allowances allocated every year, with no ability to purchase additional allowances from sources outside of the State, preventing an increase beyond that annual allocation.[90] This includes an annual allocation of 10,000 allowances to the Supplemental Allowance pool. The Supplemental Allowance pool may grow over time as unused supplemental allowances remain available and allocations from retired units are placed in the supplemental pool, but the total number of allowances that can be allocated in a control period from in this supplemental pool is limited to a maximum 54,711 tons plus the amount of any allowances placed in the pool that year from retired units and corrections. The 54,711-ton value is equal to 10,000 tons annually allocated to the pool plus 18% of the total annual allocation for participating units, mirroring the variability limit from CSAPR. The total number of allowances that can be allocated in a single year is therefore 293,104, which is the sum of the 238,393 budget for existing units plus 54,711. Annual average emissions for the covered sources will be less than or equal to 248,393 tons with some year to year variability constrained by the number of banked allowances and allowances available to be allocated during a control period from the Supplemental Allowance pool. If additional units opt into the program, additional allowances will be available corresponding to the amounts that those units would have been allocated under CSAPR. The projected SO_2 emissions from the affected Texas EGUs in the CSAPR + BART-elsewhere scenario were 266,600 tons per year. In a 2012 sensitivity analysis memo, EPA conducted a sensitivity analysis that confirmed that CSAPR would remain better-than-BART if Texas EGU emissions increased to approximately 317,100 tons.[91] Under the Texas SO_2

[90] We note the trading program does allow non-participating sources that previously had CSAPR allocations to opt-in to the trading program and receive an allocation equivalent to the CSAPR level allocation. Should some sources choose to opt-in to the program, the total number of allowances will increase by that amount.

[91] For the projected annual SO_2 emissions from Texas EGUs, *see* 2011 CSAPR/BART Technical Support Document, at Table 2–4, available in the docket for this action. Certain CSAPR budgets were increased after promulgation of the CSAPR final rule (and the increases were addressed in the 2012 CSAPR/BART sensitivity analysis memo), *See* memo titled ''Sensitivity Analysis Accounting for Increases in Texas and Georgia Transport Rule State Emissions Budgets,'' Docket ID No. EPA–HQ–OAR–2011–0729–0323 (May 29, 2012), available in the docket for this action. The increase in the Texas

Continued

trading program, annual average EGU emissions are anticipated to remain well below 317,100 tons per year as annual allocations for participating units are held at 248,393 tons per year. Sources not covered by the program emitted less than 27,500 tons of SO_2 in 2016 and are not projected to significantly increase from this level. Any new units would be required to be well controlled and, similar to the existing units not covered by the program, they would not significantly increase total emissions of SO_2. Furthermore, as discussed above, any load shifting to these new non-participating units would be projected to result in a net decrease in emissions per unit of electricity generated and at most a small increase in total SO_2 emissions compared to them not having been brought into operation. We note that total emissions of SO_2 from all EGU sources in Texas in 2016 were 245,737 tons.

We also note that state-wide EGU SO_2 emissions in Texas have decreased considerably since the 2002 baseline period, reflecting market changes and reductions due to requirements such as CAIR/CSAPR. In 2002, Texas EGU emissions were 560,860 tons of SO_2 compared to emissions of 245,737 tons in 2016, a reduction of over 56%. The Texas SO_2 trading program locks in the large majority of these reductions by limiting allocation of allowances to 248,393 tons per year for participating sources. While the Texas program does not include all EGU sources in the State, as discussed above, the EGUs outside of the program contribute relatively little to the total state emissions and these units on average are better controlled for SO_2 than the units subject to the Texas program.

In sum, we propose to affirm and request comment on the determination that the Texas Trading Program will result in SO_2 emissions from Texas EGUs similar to emissions anticipated under CSAPR and thus that the weight of evidence supports the conclusion that the SO_2 Trading Program meets the requirements of a BART alternative. The differences in source coverage are either not significant, or, in some cases, work to demonstrate the relative stringency of the Program compared to CSAPR.

C. Specific Texas SO_2 Trading Program Features

The Texas SO_2 Trading Program is an intrastate cap-and-trade program for listed covered sources in the State of Texas. The EPA is proposing to affirm our promulgation of the Texas SO_2 Trading Program under 40 CFR 52.2312 and subpart FFFFF of part 97. The State of Texas may choose to remain under the Texas SO_2 Trading Program in our FIP or replace it with an appropriate SIP if it chooses to develop and submit one to EPA and EPA is able to approve it. If the State of Texas is interested in pursuing delegation of the Texas SO_2 Trading Program, the request would need to provide a demonstration of the State's statutory authority to implement any delegated elements.

The Texas SO_2 Trading Program is modeled after the EPA's CSAPR SO_2 Group 2 Trading Program, and we are proposing to affirm that the Program satisfies the requirements of 51.308(e)(2)(vi). Similar to the CSAPR SO_2 Group 2 Trading Program, the Texas SO_2 Trading Program sets an SO_2 emission budget for affected units and sources in the State of Texas. Authorizations to emit SO_2, known as allowances, are allocated to affected units. The Texas SO_2 Trading Program provides flexibility to affected units and sources by allowing units and sources to determine their own compliance path; this includes adding or operating control technologies, upgrading or improving controls, switching fuels, and using allowances. Sources can buy and sell allowances and bank (save) allowances for future use as so long as each source holds enough allowances to account for its emissions of SO_2 by the allowance transfer deadline shortly after the end of the compliance period.

Pursuant to the requirements of 51.308(e)(2)(vi)(A), the applicability of the Texas SO_2 Trading Program is defined in 40 CFR 97.904. Section 97.904(a) identifies the subject units, which include all BART-eligible coal-fired EGUs, additional coal-fired EGUs, and several BART-eligible gas-fired and gas/fuel oil-fired EGUs, all of which were previously covered by the CSAPR SO_2 Group 2 Trading Program. Additionally, pursuant to 40 CFR 97.904(b), the Trading Program provides an opportunity for any other unit in the State of Texas that was subject to the CSAPR SO_2 Group 2 Trading Program to opt-in to the Texas SO_2 Trading Program. We discuss in Section IV.B how the applicability results in coverage of the Texas SO_2 trading program representing 81% of the total CSAPR allocation for Texas and 85% of the CSAPR allocations for existing units, and how potential shifts in generation would result in a reduction of emissions or, at worst, an insignificant increase in emissions. The Texas SO_2 Trading Program establishes the statewide SO_2 budget for the subject units at 40 CFR 97.910(a). This budget is equal to the sum of the allowances for each subject unit identified under 97.904(a) and 97.911(a). As units opt-in to the Texas SO_2 Trading under 97.904(b), the allowances for each of these units will equal their CSAPR SO_2 Group 2 allowances under 97.911(b). We specifically solicit comment on retention or elimination of the provision that provides opportunity for certain units to opt-in to the Texas SO_2 trading Program.

Additionally, the EPA has established a Supplemental Allowance Pool with a budget of 10,000 tons of SO_2 to provide compliance assistance to subject units and sources. Section 40 CFR 97.912 establishes how allowances are allocated from the Supplemental Allowance Pool to sources (collections of participating units at a facility) that have reported total emissions for that control period exceeding the total amounts of allowances allocated to the participating units at the source for that control period (before any allocation from the Supplemental Allowance Pool). For any control period, the maximum supplemental allocation from the Supplemental Allowance Pool that a source may receive is the amount by which the total emissions reported for its participating units exceed the total allocations to its participating units (before any allocation from the Supplemental Allowance Pool). If the total amount of allowances available for allocation from the Supplemental Allowance Pool for a control period is less than the sum of these maximum allocations, sources will receive less than the maximum supplemental allocation from the Supplemental Allowance Pool, where the amount of supplemental allocations for each source is determined in proportion to the source's respective maximum allocations, with one exception. While all other sources required to participate in the trading program have flexibility to transfer allowances among multiple participating units under the same owner/operator when planning operations, Coleto Creek consists of only one coal-fired unit and, as of the issuance of the October 2017 final action, was the only coal-fired unit in Texas owned and operated by Dynegy. It was conceivable that insufficient incentives would exist to compel Dynegy's competitors in the electric market to make their additional allowances available for purchase by Dynegy. To provide this source additional flexibility, Coleto Creek will be allocated its maximum supplemental

SO_2 budget was 50,517 tons which, when added to the Texas SO_2 emissions projected in the CSAPR + BART-elsewhere scenario of 266,600 tons, yields total potential SO_2 emissions from Texas EGUs of approximately 317,100 tons.

allocation from the Supplemental Allowance Pool as long as there are sufficient allowances in the Supplemental Allowance Pool available for this allocation, and its actual allocation will not be reduced in proportion with any reductions made to the supplemental allocations to other sources. We note that Dynegy and Vistra—which owns other units that are subject to the trading program, some of which have ceased operation and thus will not need to use their allowances—have recently merged, and we specifically solicit comment on whether we should retain or eliminate this additional flexibility for Coleto Creek in light of this recent change in ownership.[92]

Section 97.921 establishes how the Administrator will record the allowances for the Texas SO_2 Trading Program and ensures that the Administrator will not record more allowances than are available under the program consistent with 40 CFR 51.308(e)(2)(vi)(B). The monitoring, recordkeeping, and reporting provisions for the Texas SO_2 Trading Program at 40 CFR 97.930–97.935 are consistent with those requirements in the CSAPR SO_2 Group 2 Trading Program. The provisions in 40 CFR 97.930–97.935 require the subject units to comply with the monitoring, recordkeeping, and reporting requirements for SO_2 emissions in 40 CFR part 75; thereby satisfying the requirements of 51.308(e)(2)(vi)(C)–(E). The EPA will implement the Texas SO_2 Trading Program using the Allowance Management System, which will provide a consistent approach to implementation and tracking of allowances and emissions for the EPA, subject sources, and the public consistent with the requirements of 40 CFR 51.308(e)(2)(vi)(F). The requirements at 40 CFR 97.913–97.918 for designated and alternate designated representatives are consistent with the requirements of 40 CFR 51.308(e)(2)(vi)(G) and are also consistent with the EPA's other trading programs under 40 CFR part 97. Allowance transfer provisions for the Texas SO_2 Trading Program at 40 CFR 97.922 and 97.923 provide procedures that allow timely transfer and recording of allowances; these provisions will minimize administrative barriers to the operation of the allowance market and ensure that such procedures apply uniformly to all sources and other potential participants in the allowance market, consistent with 40 CFR 51.308(e)(2)(vi)(H). Compliance provisions for the Texas SO_2 Trading Program at 40 CFR 97.924 prohibit a source from emitting a total tonnage of SO_2 that exceeds the tonnage value of its SO_2 allowance holdings as required by 40 CFR 51.308(e)(2)(vi)(I). The Texas SO_2 Trading Program includes automatic allowance surrender provisions at 40 CFR 97.924(d) that apply consistently from source to source and the tonnage value of the allowances deducted shall equal at least three times the tonnage of the excess emissions, consistent with the penalty provisions at 40 CFR 51.308(e)(2)(vi)(J). The Texas SO_2 Trading Program provides for banking of allowances under 40 CFR 97.926; Texas SO_2 Trading Program allowances are valid for compliance in the control period of issuance or may be banked for future use, consistent with 40 CFR 51.308(e)(2)(vi)(K). 40 CFR 51.308(e)(2)(vi)(L) requires periodic program evaluation to assess whether the program is accomplishing its goals and whether modifications to the program are needed to enhance performance of the program. The CAA and EPA's implementing regulations require comprehensive periodic revisions of implementation plans for regional haze under 40 CFR 51.308(f) and periodic review of the state's regional haze approach under 40 CFR 51.308(g) to evaluate progress towards the reasonable progress goals for Class I areas located within the State and Class I areas located outside the State affected by emissions from within the State. Because the Texas SO_2 Trading Program is a BART-alternative and part of the long-term strategy for Texas' Regional Haze obligations, this program will be reviewed in each comprehensive periodic revision and progress report. We anticipate these revisions and progress reports will provide the information needed to assess program performance, as required by 40 CFR 51.308(e)(2)(vi)(L). In sum, the EPA is proposing to affirm our determination that the promulgation of the Texas SO_2 Trading Program meets the requirements of 40 CFR 51.308(e)(2) as a BART alternative for Texas' Regional Haze obligations.

As previously discussed, the EPA modeled the Texas SO_2 Trading Program after the EPA's CSAPR SO_2 Group 2 Trading Program. Relying on a trading program structure that is already in effect enables the EPA, the subject sources, and the public to benefit from the use of the Allowance Management System's forms, and of familiar and tested monitoring, recordkeeping, and reporting requirements. However, there are a few features of the Texas SO_2 Trading Program that are separate and unique from the EPA's CSAPR. First, the program does not address new units that are built after the inception of the program; these units would be permitted and constructed using emission control technology determined under either BACT or LAER review, as applicable, and would emit at emission rates much lower than the average emission rate of those units participating in the program. Second, the Texas SO_2 Trading Program provides that Texas sources that were previously covered under the CSAPR SO_2 Group 2 Trading Program, but that are not subject to the requirements of subpart FFFFF of part 97, can opt-in to the Texas SO_2 Trading Program at the allocation level established under CSAPR. Finally, the Texas SO_2 Trading Program includes a Supplemental Allowance Pool to provide some compliance assistance to units whose emissions exceed their allocations. The amount of allocations to the Supplemental Allowance Pool each year is less than the portion of the Texas budget under the CSAPR SO_2 Group 2 Trading Program that would have been set aside each year for new units (and which would have been allocated to existing units to the extent not needed by new units).

D. Recent Retirements

Vistra permanently retired Big Brown,[93] Monticello,[94] and Sandow[95] this year. This is new information that arose after we issued our October 2017 FIP. There are now a significant amount of allowances that would be allocated to retired units. We also note that Welsh Unit 2 shut down in 2016[96] and the JT Deely units have been announced for retirement at the end of 2018. After all these recent and planned shutdowns, 74,313 tons of allowances would be allocated to retired units. In 2017, these units emitted 105,844 tons of SO_2. We

[92] *https://www.vistraenergy.com/vistra-dynegy-merger/.*

[93] See letter dated March 27, 2018 from Kim Mireles of Luminant to the TCEQ requesting to cancel certain air permits and registrations for Big Brown available in the docket for this action.

[94] See letter dated February 8, 2018 from Kim Mireles of Luminant to the TCEQ requesting to cancel certain air permits and registrations for Monticello available in the docket for this action.

[95] See letter dated February 14, 2018 from Kim Mireles of Luminant to the TCEQ requesting to cancel certain air permits and registrations for Sandow 5 Units 5A and 5B available in the docket for this action.

[96] Welsh Unit 2 was retired on April 16, 2016 pursuant to a Consent Decree (No. 4:10–cv–04017–RGK) and subsequently removed from the Title V permit (permit no. O26). We have included the Consent Decree, permitting notes, and new Title V permit showing that the Unit is removed in the docket for this action.

specifically solicit comment on how these shutdowns should impact the provision at 40 CFR 97.911(a)(2) regarding allocations to retired units for a period of five years, including comment on the alternative proposal described below.

In light of these shutdowns, we solicit comment on a different approach to calculating the total number of allowances that can be allocated in a control period from the supplemental allowance pool. The 54,711-ton value discussed above is equal to 10,000 tons annually allocated to the pool plus 18% of the total annual allocation for participating units, mirroring the variability limit from CSAPR (40 CFR 97.912(b)). In this alternative approach, the total limit would be 41,335 tons, calculated as 10,000 tons annually allocated to the pool plus 18% of the total annual allocation for participating units *minus the annual allocation for the participating units that have been permanently retired as of January 1, 2019.* The total number of allowances that can be allocated in a single year would therefore be not 293,104, but rather 279,728, which is the sum of the 238,393 budget for existing units plus 41,335.[97] Annual average emissions for the covered sources will be less than or equal to 248,393 tons, and although there will be with some year-to-year variability, that variability will be constrained by the number of banked allowances and allowances available to be allocated during a control period from the Supplemental Allowance pool.

E. Interstate Visibility Transport

In our October 2017 final action, we determined that the BART alternatives to address SO_2 and NO_X BART at Texas' EGUs provided measures that are adequate to ensure that emissions from the State do not interfere with measures to protect visibility in nearby states, and thus the October 2017 final action satisfies the interstate visibility transport requirements. An EPA guidance document (2013 Guidance) on infrastructure SIP elements states that CAA section 110(a)(2)(D)(i)(II)'s interstate visibility transport requirements can be satisfied by approved SIP provisions that the EPA has found to adequately address a state's contribution to visibility impairment in other states.[98] The EPA interprets interstate visibility transport to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.[99] The 2013 Guidance lays out two ways in which a state's infrastructure SIP submittal may satisfy interstate visibility transport. One way is through a state's confirmation in its infrastructure SIP submittal that it has an EPA approved regional haze SIP in place. In the absence of a fully approved regional haze SIP, a demonstration that emissions within a state's jurisdiction do not interfere with other states' plans to protect visibility meets this requirement. Such a demonstration should point to measures that limit visibility-impairing pollutants and ensure that the resulting reductions conform with any mutually agreed emission reductions under the relevant regional haze regional planning organization (RPO) process.[100]

To develop its 2009 Regional Haze SIP, TCEQ worked through its RPO, the Central Regional Air Planning Association (CENRAP), to develop strategies to address regional haze, which at that time were based on emissions reductions from CAIR. To help states in establishing reasonable progress goals for improving visibility in Class I areas, the CENRAP modeled future visibility conditions based on the mutually agreed emissions reductions from each state. The CENRAP states then relied on this modeling in setting their respective reasonable progress goals.

We are proposing to affirm our determination that the October 2017 final action is adequate to ensure that emissions from Texas do not interfere with measures to protect visibility in nearby states because the BART FIP emission reductions are consistent with the level of emission reductions relied upon by other states during consultation. The 2009 Texas Regional Haze SIP relied on CAIR to meet SO_2 and NO_X BART requirements for EGUs. Under CAIR, Texas EGU sources were projected to emit approximately 350,000 tpy of SO_2. As discussed elsewhere, Texas EGU SO_2 emissions for sources covered by the trading program will be constrained by the number of available allowances. Average annual emissions for the covered sources will be less than or equal to 248,393 tons with some year to year variability constrained by the number of banked allowances and number of allowances that can be allocated in a control period from the supplemental pool. Sources not covered by the program emitted less than 27,500 tons of SO_2 in 2016 and are not projected to significantly increase from this level. Any new units would be required to be well controlled and similar to the existing units not covered by the program, they would not significantly increase total emissions of SO_2. Additionally, the FIP relies on CSAPR as an alternative to EGU BART for NO_X, which exceeds the emission reductions relied upon by other states during consultation. As such, we are proposing to affirm that the BART alternatives in the October 2017 final action are sufficient to address the interstate visibility transport requirement under CAA section 110(a)(2)(D)(i)(II) for the six NAAQS, and request comment on this determination.

V. Proposed Action

A. Regional Haze

We are proposing to affirm our approval of the portion of the Texas Regional Haze SIP that addresses the BART requirement for EGUs for PM. To address the SO_2 BART requirements for EGUs, we are proposing to affirm our FIP to replace Texas' reliance on CAIR with reliance on an intrastate SO_2 trading program for certain EGUs identified in Table 9. This proposed action would also be part of the long-term strategy to address the reasonable progress requirements for Texas EGUs, which remain outstanding after the remand of our reasonable progress FIP by the Fifth Circuit Court of Appeals.

In this proposed action we are also specifically soliciting comment on whether we should retain or eliminate the additional flexibility for Coleto Creek in Section 40 CFR 97.912 that establishes how allowances are allocated from the Supplemental Allowance Pool to this source in light of this recent change in ownership after the merger of Dynegy and Vistra. In light of recent and planned shutdowns, we specifically solicit comment on how these shutdowns should impact the provision at 40 CFR 97.911(a)(2) regarding allocations to retired units for a period of five years. We also solicit comment on a different approach to calculating the total number of allowances that can be allocated in a control period from the supplemental allowance pool pursuant to 40 CFR 97.912(b). In addition, we are specifically soliciting comment on

[97] See "Texas EGUs 2016 and 2017 annual emissions.xlsx," available in the docket for this action.

[98] *See* "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" included in the docket for this action.

[99] See id. at 33.

[100] *See id.,* at 34; 76 FR 22036 (April 20, 2011) (containing EPA's approval of the visibility requirement of 110(a)(2)(D)(i)(II) based on a demonstration by Colorado that did not rely on the Colorado Regional Haze SIP).

retention or elimination of the provision under 40 CFR 97.904(b) that provides opportunity for certain units to opt-in to the Texas SO_2 trading Program.

TABLE 9—TEXAS EGUS SUBJECT TO THE FIP SO_2 TRADING PROGRAM

Owner/ operator	Units
AEP	Welsh Power Plant Units 1, 2, and 3.
	H W Pirkey Power Plant Unit 1.
	Wilkes Units 1*, 2*, and 3*.
CPS Energy	JT Deely Units 1 and 2, Sommers Units 1* and 2*.
Dynegy	Coleto Creek Unit 1.
LCRA	Fayette/Sam Seymour Units 1 and 2.
Luminant/ Vistra.	Big Brown Units 1 and 2.
	Martin Lake Units 1, 2, and 3.
	Monticello Units 1, 2, and 3.
	Sandow Unit 4.
	Stryker ST2*.
	Graham Unit 2*.
NRG	Limestone Units 1 and 2.
	WA Parish Units WAP4*, WAP5, WAP6, WAP7.
Xcel	Tolk Station Units 171B and 172B.
	Harrington Units 061B, 062B, and 063B.
El Paso Electric.	Newman Units 2*, 3*, and 4*.

* Gas-fired or gas/fuel oil-fired units.

B. Interstate Visibility Transport

In our October 2017 final action, we determined that the BART alternatives to address SO_2 and NO_X BART at Texas' EGUs were adequate to satisfy the interstate visibility transport requirements for these NAAQS: (1) 1997 8-hour ozone; (2) 1997 $PM_{2.5}$ (annual and 24-hour); (3) 2006 $PM_{2.5}$ (24-hour); (4) 2008 8-hour ozone; (5) 2010 1-hour NO_2; and (6) 2010 1-hour SO_2. The emission reductions from Texas sources associated with these BART alternatives are consistent with the level of emission reductions relied upon by other states when setting their reasonable progress goals. Consistent with our decision in the October 2017 rulemaking, we are proposing to affirm that the measures in the FIP are therefore adequate to ensure that emissions from Texas do not interfere with measures to protect visibility in nearby states with respect to the NAAQS enumerated above in accordance with CAA section 110(a)(2)(D)(i)(II).

VI. Statutory and Executive Order Reviews

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

This proposed 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).

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

This proposed action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act

This proposed action does not impose any new information collection burden under the PRA. The information collection activities in the October 2017 final rule promulgating the Texas SO_2 Trading Program at 40 CFR part 97, subpart FFFFF are being submitted to the Office of Management and Budget (OMB) under the PRA as part of the current Information Collection Request (ICR) renewal for the CSAPR trading programs. OMB has previously approved the information collection activities for the CSAPR trading programs and has assigned OMB control number 2060–0667. The ICR document that the EPA prepared for the renewal has been assigned EPA ICR number 2391.05. You can find a copy of the ICR at *https://www.regulations.gov* under Docket ID Number EPA–HQ–OAR–2018–0209. 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.

D. Regulatory Flexibility Act

I certify that this proposed action will not have a significant impact on a substantial number of small entities. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This proposed rule does not impose any requirements or create impacts on small entities. This proposed FIP action under Section 110 of the CAA will not create any new requirement with which small entities must comply. Accordingly, it affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (*e.g.,* emission limitations) may or will flow from this action does not mean that the EPA either can or must conduct a regulatory flexibility analysis for this action. We have therefore concluded that this proposed action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This proposed 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.

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

This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks [101] applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets E.O. 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the E.O. has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is not economically

[101] 62 FR 19885 (Apr. 23, 1997).

significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this proposed action present a disproportionate risk to children. This proposed action is not subject to E.O. 13045 because it implements specific standards established by Congress in statutes. However, to the extent this proposed rule will limit emissions of SO_2, the proposed rule will have a beneficial effect on children's health by reducing air pollution.

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

This proposed action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This proposed action involves technical standards. The EPA has decided to use the applicable monitoring requirements of 40 CFR part 75. Part 75 already incorporates a number of voluntary consensus standards. Consistent with the Agency's Performance Based Measurement System (PBMS), part 75 sets forth performance criteria that allow the use of alternative methods to the ones set forth in part 75. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. At this time, EPA is not recommending any revisions to part 75; however, EPA periodically revises the test procedures set forth in part 75. When EPA revises the test procedures set forth in part 75 in the future, EPA will address the use of any new voluntary consensus standards that are equivalent. Currently, even if a test procedure is not set forth in part 75, EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified; however, any alternative methods must be approved through the petition process under 40 CFR 75.66 before they are used.

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

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). We have determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The proposed rule limits emissions of SO_2 from certain facilities in Texas.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available retrofit technology.

40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur dioxides.

Dated: August 17, 2018.

Anne Idsal,

Regional Administrator.

[FR Doc. 2018–18497 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2017–0560; FRL–9982–78]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 10 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action would require persons who intend to manufacture (defined by statute to include import) or process any of these 10 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination. In addition to this notice of proposed rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**.

DATES: Comments must be received on or before September 26, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0560, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: In addition to this notice of proposed rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**. For further

information about the proposed significant new use rules, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 20, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–18528 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2017–0464; FRL–9982–25]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 19 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action would require persons who intend to manufacture (defined by statute to include import) or process any of these 19 chemical substances for an activity that is designated as a significant new use by these rules to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination. In addition to this Notice of Proposed Rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**.

DATES: Comments must be received on or before September 26, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0464, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: In addition to this Notice of Proposed Rulemaking, EPA is issuing the action as a direct final rule elsewhere in this issue of the **Federal Register**. For further information about the proposed significant new use rules, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 17, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–18606 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Parts 1001 and 1003

RIN 0936–AA10

Medicare and State Health Care Programs: Fraud and Abuse; Request for Information Regarding the Anti-Kickback Statute and Beneficiary Inducements CMP

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Request for information.

SUMMARY: This request for information seeks input from the public on how to address any regulatory provisions that may act as barriers to coordinated care or value-based care.

DATES: Comment Date: To ensure consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on October 26, 2018.

ADDRESSES: In commenting, refer to file code OIG–0803–N. Because of staff and resource limitations, we cannot accept comments by facsimile (fax) transmission. However, you may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Susan Edwards, Office of Inspector General, Department of Health and Human Services, Attention: OIG–0803–N, Room 5513, Cohen Building, 330 Independence Avenue SW, Washington, DC 20201.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver your written comments by hand or courier before the close of the comment period to: Susan Edwards, Office of Inspector General, Department of Health and Human Services, Attention: OIG–0803–N, Room 5513, Cohen Building, 330 Independence Avenue SW, Washington, DC 20201.

Because access to the interior of the Cohen Building is not readily available to persons without Federal Government identification, commenters are encouraged to schedule their delivery with one of our staff members at (202) 619–0335.

For information on viewing public comments, please see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Susan Edwards, (202) 708–9845.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. Comments received in a timely manner will also be available for public inspection as they are received at the Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue SW, Washington, DC 20201, Monday through Friday, from 10 a.m. to 5 p.m. To schedule an appointment to view public comments, phone (202) 619–0335.

I. Introduction

The Department of Health and Human Services (HHS) is working to transform the health care system into one that better pays for value. Care coordination is a key aspect of systems that deliver value. Removing unnecessary government obstacles to care coordination is a key priority for HHS. To help accelerate the transformation to a value-based system that includes care coordination, HHS has launched a Regulatory Sprint to Coordinated Care, led by the Deputy Secretary. This ''Regulatory Sprint'' is focused on identifying regulatory provisions that may act as barriers to coordinated care, assessing whether those regulatory provisions are unnecessary obstacles to coordinated care, and issuing guidance or revising regulations to address such obstacles and, as appropriate, to encourage and incentivize coordinated care while protecting against harms caused by fraud and abuse.

The Office of Inspector General (OIG) seeks to identify ways in which it might modify or add new safe harbors to the anti-kickback statute and exceptions to the beneficiary inducements civil monetary penalty (CMP) definition of ''remuneration'' in order to foster arrangements that would promote care coordination and advance the delivery of value-based care, while also protecting against harms caused by fraud and abuse. Through internal discussion and with the benefit of facts and information received from external stakeholders, OIG has identified the broad reach of the anti-kickback statute and beneficiary inducements CMP as a potential impediment to beneficial arrangements that would advance coordinated care. To inform our efforts, we welcome public comment on the safe harbors to the anti-kickback statute and the exceptions to the beneficiary inducements CMP definition of ''remuneration'' as they relate to the goals of the Regulatory Sprint outlined above. In particular, we welcome comments in response to the questions presented in this Request for Information (RFI).

II. Background

Section 1128B(b) of the Social Security Act (the Act), the Federal anti-kickback statute, provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration to induce or reward the referral of business reimbursable under Federal health care programs, as defined in section 1128B(f) of the Act. The law endeavors to protect patients and the Federal health care programs from fraud and abuse by curtailing the corrupting influence of remuneration on health care decisions; however, because the statute is broadly written, when it was enacted there was concern that some relatively innocuous and potentially beneficial arrangements were technically covered by the statute and therefore were subject to criminal prosecution.

In response to this concern, Congress passed section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, which required HHS to set forth ''safe harbors'' to the anti-kickback statute. Specifically, section 1128B(b)(3)(E) of the Act protects from the anti-kickback statute ''any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.'' In giving HHS the authority to protect certain arrangements and payment practices under the anti-kickback statute, Congress intended the safe harbors to be evolving rules that would be updated periodically to reflect changing business practices and technologies in the health care industry.[1]

Health care providers and others may voluntarily comply with safe harbors in an effort to ensure that their business practices will not be subject to criminal prosecution under the anti-kickback statute, the imposition of civil monetary penalties (CMPs) under section 1128A(a)(7) of the Act, program exclusion under section 1128(b)(7) of the Act, and liability under the False Claims Act (31 U.S.C. 3729–33). Since finalizing the first safe harbors in 1991, OIG has continued to engage the industry on the application of the Federal anti-kickback statute and development of safe harbors.

Section 1128A(a)(5) of the Act, the beneficiary inducements CMP, provides for the imposition of CMPs against any person who offers or transfers remuneration to a Medicare or State health care program beneficiary that the benefactor knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of any item or service for which payment may be made, in whole or in part, by Medicare or a State health care program. In the same administrative proceedings in which it may seek to impose CMPs against a person, OIG may seek to exclude such person from the Federal health care programs. For purposes of section 1128A(a)(5) of the Act, the statute defines ''remuneration'' to include, without limitation, waivers of co-payments and deductible amounts (or any part thereof) and transfers of items or services for free or for other than fair market value.[2] The statute and associated regulations contain a limited number of exceptions.[3]

OIG is mindful of the impact of delivery system and payment reform on Federal health care programs and the changing relationships between providers, suppliers, and other entities in delivering higher quality, better coordinated care; enhancing value; and improving the overall health of patients. We have received several suggestions for new safe harbors and proposed modifications to existing safe harbors that may promote care coordination and reduce regulatory impediments to value-based arrangements, including in response to our annual ''Solicitation of New Safe Harbors and Special Fraud Alerts.''[4]

We continue to consider how to balance additional flexibility for industry stakeholders to provide

[1] H.R. Rep. No. 100–85, Pt. 2, at 27 (1987).

[2] *See* section 1128A(i)(6) of the Act.

[3] *See id.*; 42 CFR 1003.110.

[4] *See, e.g.,* Solicitation of New Safe Harbors and Special Fraud Alerts, 82 FR 61,229 (Dec. 27, 2017), *available at https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27117.pdf*; OIG, *Semiannual Report to Congress,* April 1, 2017–September 30, 2017, *available at https://oig.hhs.gov/reports-and-publications/archives/semiannual/2017/sar-fall-2017.pdf.*

efficient, well-coordinated, patient-centered care with protections against the harms caused by fraud and abuse. We are requesting additional information in this RFI to help inform our efforts. We are particularly interested in thoughts on topics that include, but are not limited to: (i) The structure of arrangements between parties that participate in alternative payment models or other novel financial arrangements designed to promote care coordination and value; (ii) the need for new or revised safe harbors and exceptions to the definition of ''remuneration'' under the beneficiary inducements CMP to promote beneficial care coordination, patient engagement, and value-based arrangements; and (iii) terminology related to alternative payment models, value-based arrangements, and care coordination. We are interested in any special considerations for rural providers and others serving underserved populations, including American Indian and Alaska Native communities.

Where relevant, we intend to review comments submitted in response to the Medicare Program; Request for Information Regarding the Physician Self-Referral Law, RIN 0938–AT64, issued by the Centers for Medicare & Medicaid Services (CMS).[5] However, given the volume of questions included in that RFI and OIG's separate, and different, authorities, we urge individuals and entities to resubmit any relevant comments to this RFI to ensure they are considered by OIG. We look forward to receiving input in response to this RFI.

III. Request for Information

We welcome public input on any or all of the topics identified below. Respondents are not required to address every issue or respond to every question discussed in this RFI to have their responses considered.

1. Promoting Care Coordination and Value-Based Care

A. Please tell us about potential arrangements that the industry is interested in pursuing, such as care coordination, value-based arrangements, alternative payment models, arrangements involving innovative technology, and other novel financial arrangements that may implicate the anti-kickback statute or beneficiary inducements CMP. For example, we are interested in better understanding the structure and terms of the arrangement (*e.g.,* categories/types of parties; how risk is allocated among parties; financial relationships involving potential referral sources and seekers created by the arrangement; and types of items and services provided by the arrangement). We are also interested in understanding how the arrangement promotes care coordination or value-based care and how the arrangement prevents potential harms, such as increased costs, inappropriate utilization, poor quality of care, and distorted decision making.

B. Please identify what, if any, additional or modified safe harbors to the anti-kickback statute or exceptions to the definition of ''remuneration'' under the beneficiary inducements CMP may be necessary to protect such arrangements and any key provisions that should be included in the additional or modified safe harbor or exception. Existing safe harbors and exceptions of particular relevance to coordinated care include, for example, those related to personal services and management contracts, electronic health record arrangements, warranties, transportation, and promoting access to care. Suggested new safe harbors or exceptions might address care coordination services arrangements or arrangements promoting the use of innovative technology. In particular, please describe what conditions would be appropriate to include in a safe harbor or exception to protect against fraud and abuse in the context of such arrangements, including what, if any, disclosures should be required by such safe harbors or exceptions.

C. Please explain how ''value'' could be defined and used in a safe harbor or exception such that OIG could evaluate ''value'' within an arrangement to determine compliance with the safe harbor or exception.

D. In the context of health care delivery reform, payment reform, and the anti-kickback statute, please share thoughts on definitions for critical terminology such as:

i. Alternative payment model
ii. Care coordination services
iii. Care coordinator
iv. Clinical integration
v. Coordinated care
vi. Financial integration
vii. Gainsharing
viii. Health system
ix. Integrated care model
x. Integrated delivery system
xi. Incentive payments
xii. Outcomes-based care
xiii. Risk
xiv. Risk-sharing
xv. Value-based care
xvi. Value-based arrangement

E. Are there opportunities where OIG could clarify its position through guidance as opposed to regulation? For example, would a law enforcement policy statement offer sufficient protection in some instances? If so, please elaborate.

2. Beneficiary Engagement

A. Beneficiary Incentives

i. Please provide feedback regarding the types of incentives providers, suppliers, and others are interested in providing to beneficiaries, how providing such incentives would contribute to or improve quality of care, care coordination, and patient engagement, including adherence to care plans, and whether the types of providers, suppliers, or other entities that furnish the incentives matter from an effectiveness and program integrity perspective. Please be as specific as possible. Additional areas of interest include:

a. What, if any, restrictions should OIG place on the sources, types, or frequency of beneficiary incentives that could be provided to reduce the risk of fraud and abuse?

b. Examples of beneficiary incentive arrangements that are appropriate and effective.

c. Should beneficiary incentives connected to medication adherence and medication management be treated differently than other types of beneficiary incentives? If so, how and why?

d. What, if any, disclosures should OIG require the offeror to make to beneficiaries regarding an incentive (*e.g.,* the source of the incentive)?

ii. Please identify (and provide citations to) any recent studies assessing the positive or negative effects of beneficiary incentives on patient care or patient engagement.

iii. In the context of beneficiary incentives, please identify any risks or benefits from the following types of potential remuneration, as well as any safeguards to mitigate risks, and describe how these terms should be defined for purposes of any rulemaking related to coordinated care or value-based arrangements:

a. Cash equivalent
b. Gift card
c. In-kind items and services
d. Nonmonetary remuneration

iv. To promote care coordination and value-based care, should OIG amend its ''Office of Inspector General Policy Statement Regarding Gifts of Nominal Value To Medicare and Medicaid

[5] Medicare Program; Request for Information Regarding the Physician Self-Referral Law, 83 FR 29,524 (June 25, 2018), *available at https://www.gpo.gov/fdsys/pkg/FR-2018-06-25/pdf/2018-13529.pdf.*

Beneficiaries'' [6] to increase ''nominal value'' from no more than $15 per item or $75 in the aggregate per patient on an annual basis? If so, why? Please provide data or other support for any suggested changes in the dollar amounts. Also, please provide input on whether OIG should have a similar policy under the anti-kickback statute and, if so, how such policy would contribute to care coordination or value-based care.

B. Cost-Sharing Obligations

i. We are interested in input about how relieving or eliminating beneficiary cost-sharing obligations might improve care delivery, enhance value-based arrangements, and promote quality of care. Please describe any patient care scenarios in which cost-sharing obligations are particularly problematic.

ii. Please describe the financial impact on providers, suppliers, and other entities, as well as the fraud and abuse risks, if cost-sharing amounts could be waived (*i.e.,* the amount owed is not paid) by participants in a care coordination or value-based arrangement. What, if any, concerns arise if cost-sharing obligations could be subsidized by providers, suppliers, or other entities in a care delivery arrangement?

iii. Please describe any risks to beneficiaries and Federal health care programs from the reduction or elimination of cost-sharing obligations.

iv. Please describe any suggested protections or safeguards that OIG should incorporate if we were to create a safe harbor for certain beneficiary cost-sharing waiver or subsidy arrangements.

3. Other Related Topics of Interest

A. Current Fraud and Abuse Waivers

i. Please provide feedback on the current waivers developed for the purposes of testing models by the Center for Medicare and Medicaid Innovation (Innovation Center) and carrying out the Medicare Shared Savings Program (MSSP).[7] Feedback from parties who are using or who are eligible to use those waivers would be helpful as we consider the issues raised in this RFI. For example, we are interested in the following:

a. How, if at all, have stakeholders found compliance with the waiver conditions challenging? Please be as specific as possible.

b. Are any waiver requirements particularly burdensome, such that they impede the goals of the models, initiatives, or programs? If so, please specify which waiver requirements and why they impede the goals of the model, initiative, or program.

c. What waiver structures or conditions, if any, work well? Should OIG consider any waiver structures or conditions for any future safe harbors or exceptions related to care coordination and value-based care (including beneficiary incentives to promote patient engagement)? Please be as specific as possible and provide reasons.

d. One of the key safeguards to mitigate the risk of fraud or abuse from arrangements protected by the pre-participation and participation waivers developed pursuant to the MSSP, the Next Generation ACO Model's participation waiver, and the Pioneer ACO Model's participation waiver [8] is the involvement of the accountable care organization's (ACO's) governing body in the authorization of each arrangement. We are interested in feedback on how the ACO governing body concept is working, and whether and if so how, it could be applied to safe harbors or exceptions for alternative payment models and coordinated care arrangements.

e. We invite specific feedback regarding the pros and cons of fraud and abuse protections (*e.g.,* waivers or safe harbors) that are uniform across different types of CMS-sponsored models, initiatives, and programs.

B. Cybersecurity-Related Items and Services

i. We are aware of interest in donating or subsidizing cybersecurity-related items and services to providers and others with whom they share information. We are interested in information about the types of cybersecurity-related items or services that entities wish to donate or subsidize, and how existing fraud and abuse laws may pose barriers to such arrangements. For example, we are interested in (i) the types of persons that would be parties to, or benefit from, such arrangements; (ii) whether any persons should be excluded from such arrangements; (iii) the particular types of items that would be involved in such arrangements (*e.g.,* hardware, software, and other items); and (iv) the types of services that would be involved in such arrangements (*e.g.,* testing services, training services, monitoring services, or repair or maintenance services). Other areas of interest include:

a. How might such items or services reduce cybersecurity risks to the following: The donor, the recipient, patients, and other nonparties to the arrangement?

b. Are there technical or legal barriers (besides the physician self-referral law and the anti-kickback statute) that could prevent or limit the arrangements?

c. Are there any potential risks or unintended consequences to such arrangements (*e.g.,* potential for fraud or abuse, information blocking, or anti-competitive practices) and, if so, how might these risks be mitigated?

d. Are there any particular risks if HHS takes no action?

C. ACO Beneficiary Incentive Program (Section 50341(b) of the Bipartisan Budget Act of 2018) [9]

Section 50341(b) of the Bipartisan Budget Act of 2018, which added section 1128B(b)(3)(K) of the Act, states that ''illegal remuneration'' under the anti-kickback statute does not include ''. . . an incentive payment made to a Medicare fee-for-service beneficiary by an ACO under an ACO Beneficiary Incentive Program established under subsection (m) of section 1899, if the payment is made in accordance with the requirements of such subsection and meets such other conditions as the Secretary may establish.''

i. For the purposes of implementing this new statutory exception through a safe harbor, what, if any, ''other conditions'' should this safe harbor include as protections or safeguards? Please provide supporting reasons.

D. Telehealth (Section 50302(c) of the Bipartisan Budget Act of 2018) [10]

Section 50302(c) of the Bipartisan Budget Act of 2018 creates a new exception to the definition of ''remuneration'' in the beneficiary inducements CMP. This exception applies to ''telehealth technologies'' provided on or after January 1, 2019, by a provider of services or a renal dialysis facility to an individual with end-stage renal disease (ESRD) who is receiving home dialysis for which payment is being made under Medicare Part B. Under the statute, ''telehealth technologies'' is a term to be defined by the Secretary. The exception requires that (i) the telehealth technologies not be offered as part of any advertisement

[6] OIG, Office of Inspector General Policy Statement Regarding Gifts of Nominal Value To Medicare and Medicaid Beneficiaries (Dec. 7, 2016), *available at https://oig.hhs.gov/fraud/docs/alertsandbulletins/OIG-Policy-Statement-Gifts-of-Nominal-Value.pdf.*

[7] CMS, Fraud and Abuse Waivers for Select CMS Models and Programs, *available at https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Fraud-and-Abuse-Waivers.html.*

[8] The Pioneer ACO model began in 2012, and the final performance year concluded on December 31, 2016.

[9] Bipartisan Budget Act of 2018, Public Law 115–123, 115th Cong. (2018) (enacted).

[10] *Id.*

or solicitation; (ii) the telehealth technologies must be provided for the purpose of furnishing telehealth services related to the patient's ESRD; and (iii) the provision of the telehealth technologies must ''meet[] any other requirements set forth in regulations promulgated by the Secretary.''

i. For the purposes of this exception, please provide input on how ''telehealth technologies'' should be defined. Please provide examples of telehealth technologies that may be used to furnish telehealth services related to a beneficiary's ESRD (*e.g.,* technologies that address services on the Medicare telehealth list). Also, please indicate whether telehealth technologies should include services. If so, please explain, in detail, what services should be considered ''telehealth technologies.''

ii. For the purposes of this exception, should OIG include protections or safeguards as ''any other requirements set forth in regulations promulgated by the Secretary?'' If so, please explain what protections or safeguards and why.

4. Intersection of Physician Self-Referral Law and Anti-Kickback Statute

Please share any feedback regarding specific circumstances in which (i) exceptions to the physician self-referral law and safe harbors to the anti-kickback statute should align for purposes of the goals of this RFI; and (ii) exceptions to the physician self-referral law in furtherance of care coordination or value-based care should not have a corresponding safe harbor to the anti-kickback statute.

Respondents are encouraged to provide complete but concise and organized responses, including any relevant data and specific examples. Respondents are not required to address every issue or respond to every question discussed in this RFI to have their responses considered. All responses will be considered, provided they contain information OIG can use to identify the commenter.

Please note: This is a request for information only. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), application, proposal abstract, or quotation. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, OIG is not seeking proposals through this RFI and will not accept unsolicited proposals. Respondents are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. Please note that OIG will not respond to questions about the policy issues raised in this RFI. Contractor support personnel may be used to review RFI responses.

Responses to this RFI are not offers and cannot be accepted by the U.S. Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the U.S. Government for program planning on a nonattribution basis. Respondents should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur costs for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. OIG may publicly post the comments received or a summary thereof.

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. However, section III of this document does contain a general solicitation of comments in the form of a request for information. In accordance with the implementing regulations of the Paperwork Reduction Act (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information subject to the PRA. Consequently, there is no need for review by the Office of Management and Budget under the authority of the PRA (44 U.S.C. 3501 *et seq.*).

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we may respond to the comments in the preamble to that document.

Dated: August 20, 2018.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2018–18519 Filed 8–24–18; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

[Docket No. DOI–2018–0006; XXXD5198NI. DS61600000.DNINR0000.000000.DX61604]

RIN 1090–AB17

Natural Resource Damages for Hazardous Substances

AGENCY: Office of Restoration and Damage Assessment, Interior.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Office of Restoration and Damage Assessment (ORDA) is seeking comments and suggestions from State, Tribal, and Federal natural resource co-trustees, other affected parties, and the interested public on whether revisions to the regulations for conducting natural resource damage assessments and restoration (NRDAR) for hazardous substance releases are needed, and if so, what specific revisions should be considered.

DATES: We will accept comments through October 26, 2018.

ADDRESSES: You may submit comments to ORDA on this ANPRM by any of the following methods. Please reference the Regulation Identifier Number (RIN) DOI–2018–0006 in your comments.

- *Electronically:* Go to *http://www.regulations.gov.* In the ''Search'' box enter ''DOI–2018–0006.'' Follow the instructions to submit public comments. We will post all comments.
- Hand deliver or mail comments to the Office of Restoration and Damage Assessment, U.S. Department of the Interior, 1849 C Street Northwest, Mail Stop/Room 5538, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Steve Glomb, Director, Office of Restoration and Damage Assessment at (202) 208–4863 or email to *steve_glomb@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The regulations provide procedures that State, Tribal, and Federal natural resource co-trustees may use to evaluate the need for and means of restoring, replacing, or acquiring the equivalent of public natural resources that are injured or destroyed because of releases of hazardous substances into the environment. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)—which authorizes natural resource damage claims by States, federally recognized Indian Tribes, and the Federal government—specifies that the regulations are optional, but if the State, Tribal, and Federal governments (described as natural resource ''co-trustees'' by CERCLA) utilize them, they are entitled to a ''rebuttable presumption'' on their claim in any subsequent legal proceeding.

This notice seeks comment and suggestions in response to the CERCLA biennial review requirement and Executive Order 13777 (February 24, 2017), which directed the Department of the Interior (DOI) and other Federal agencies to establish Regulatory Reform Task Forces to evaluate existing regulations and make recommendations regarding repeal, replacement, or modification, consistent with applicable law.

Background

CERCLA authorizes the Federal government, States, and federally recognized Indian Tribes to act as ''trustees'' on behalf of the public, for the purpose of bringing claims for injury to natural resources injured or destroyed by hazardous substance releases. Such claims are not fines or penalties, and the measure of damages is calculated by the cost to restore or replace the injured or destroyed natural resources. Trustees may also recover compensation for services the resources would have provided to the public pending restoration, along with the reasonable cost of assessing injury and determining appropriate restoration. The statute requires trustees to spend restoration recoveries ''only to restore, replace, or acquire the equivalent'' of injured natural resources pursuant to a publicly reviewed restoration plan.

Section 301(c) of CERCLA requires the promulgation of regulations to guide natural resource damage assessment and restoration. The statute explicitly provides that the regulations are not mandatory, but if State, Tribal, or Federal trustees conduct an assessment in accordance with the regulations, they would receive a ''rebuttable presumption'' for their claim in any subsequent administrative or judicial proceeding. The Department of the Interior (DOI) was designated by the President to develop the regulations currently in effect at 43 CFR part 11.

DOI previously developed two types of NRDAR regulations (as specified by CERCLA). Standard procedures for simplified assessments requiring minimal field observations (the Type A Rule); and site-specific procedures for detailed assessment in individual cases (the Type B Rule). The CERCLA NRDAR Regulations were last revised in 2008. These revisions to the Type B Rule emphasized natural resource restoration over litigation and monetary damages, made technical corrections to procedural timing inconsistencies, and responded to two court decisions addressing previous versions of the regulations: *State of Ohio* v. *U.S. Department of the Interior,* 880 F.2d 432 (D.C. Cir. 1989) (*Ohio* v. *Interior*); and *Kennecott Utah Copper Corp.* v. *U.S. Department of the Interior,* 88 F.3d 1191 (D.C. Cir. 1996) (*Kennecott* v. *Interior*).

The 2008 revisions were based on the report of a committee convened by DOI under the Federal Advisory Committee Act (FACA) to make recommendations on improving NRDAR practice. The committee was comprised of representatives from States, Tribes, Federal agencies, industrial corporations, industry consultants and attorneys, local and national non-governmental organizations, and academics. Unlike previous iterations of the NRDAR regulations, the final regulatory revisions based on the FACA Committee report were not challenged by States, Tribes, industry or environmental groups.

Description of Information Requested

We are interested in comments or suggestions that improve the efficiency and cost effectiveness of the NRDAR process. An internal biennial review of the CERCLA NRDAR regulations identified some remaining issues from the NRDAR FACA Committee Report that could be addressed, and NRDAR practice issues that have developed or progressed since the last revision of the regulations. DOI is particularly interested in comments and suggestions related to these issues, outlined below. We also welcome comments and suggestions on any other aspect of the regulations that trustees, stakeholders, and the general public would like us to consider.

Simplification and ''Plain Language''

With the exceptions of the provision of the Type B Regulations that were revised in 2008, the CERCLA NRDAR regulations are arguably complicated, overly prescriptive, repetitive, and dense—particularly when compared to the Oil Pollution Act (OPA) NRDAR Rule promulgated by the National Oceanic and Atmospheric Administration at 15 CFR part 990. A number of stakeholders have suggested that DOI should consider a comprehensive ''plain English'' revision to the CERCLA NRDAR Regulations that closely aligns with the structure of the existing OPA NRDAR Regulations.

Type A Regulations

The Type A Regulations were designed to result in efficient, cost effective, standardized assessments. It has been challenging, however, to develop workable Type A Regulations that are streamlined and utilize minimal actual field observations but are still relevant and reliable enough to be entitled to a rebuttable presumption of correctness. Accordingly, DOI is seeking comments or suggestions regarding revision to and utilization of the CERCLA NRDAR Type A Regulations.

Early Emphasis on Restoration Over Damages

The NRDAR FACA Committee Report recommended that DOI could encourage a restoration focus and negotiated agreements by revising the regulations to encourage early scoping of restoration opportunities at NRDAR sites. DOI is interested in any additional comments or suggestions on where specifically in the assessment process restoration scoping may be cost effective and appropriate and how that could best be addressed in the regulations.

Procedures to Further Encourage Negotiated Settlements and Early Restoration

Since the last revision of CERCLA NRDAR Regulations, a number of matters have utilized partial negotiated settlements early in the assessment process to cost effectively resolve discrete NRDAR claims and re-inforce an overall restoration focus for ultimate comprehensive resolution. However, the current regulations offer little guidance on how to align early restoration settlements with existing statutory and regulatory requirements for assessment and restoration planning.

Advance Restoration and Restoration Banking

Restoration ''banking'' and advance restoration—where restoration is undertaken in anticipation of marketing portions of such restoration to responsible parties to address natural resource injury caused by releases of

hazardous substances—has been considered at a number of sites since the last revision of the CERCLA NRDAR regulations. Some States (such as Louisiana) have enacted specific statutory provisions and promulgated regulations on NRDAR banking. The existing CERCLA NRDAR regulations do not provide any guidance on the use of advance restoration and restoration banking techniques.

National Environmental Policy Act (NEPA) Compliance

The NRDAR FACA Committee Report encouraged DOI to adopt Department-wide categorical exclusions from NEPA as appropriate and to ensure that compliance with NEPA requirements occurs concurrently with NRDAR restoration planning. DOI is interested in comments or suggestions whether that would best be addressed in the NRDAR regulations, NEPA regulations, or in Departmental guidance.

Public Comment Procedures

DOI is not obligated to consider comments that we receive after the close of the comment period for this ANPRM, or comments that are delivered to an address other than those listed in this notice. After the comment period for this ANPRM closes, DOI will review all comment submissions. Upon consideration, DOI may publish a notice of proposed rulemaking.

We are particularly interested in receiving comments and suggestions about the topics identified in the *Description of Information Requested* section. Written comments that are specific, explain the rationale for the comment or suggestion, address the issues outlined in this notice, and where possible, refer to specific statutes, existing regulations, case law, or NRDAR practices are most useful.

Before including your address, phone number, email address or other personal identifying information in you comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review we cannot guarantee that we will do so.

Authority: 42 U.S.C. 9601, secs. 104,107,111(I), 122.

Steve Glomb,

Director, Office of Restoration and Damage Assessment.

[FR Doc. 2018–18498 Filed 8–24–18; 8:45 am]

BILLING CODE 4334–63–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–214, GN Docket No. 12–268; FCC 18–113]

LPTV, TV Translator, and FM Broadcast Station Reimbursement, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes rules to implement Congress's recent directive that we reimburse certain Low Power Television (LPTV), television translator (TV translator), and FM broadcast stations for costs incurred as a result of the Commission's broadcast television spectrum incentive auction. When Congress authorized the Commission to conduct the incentive auction, it required the Commission to reimburse certain costs incurred by full power and Class A television licensees and multichannel video program distributors (MVPDs). On March 23, 2018, Congress adopted the Reimbursement Expansion Act (REA), which, among other things, expands the list of entities eligible to be reimbursed for auction-related expenses to include LPTV, TV translator, and FM broadcast stations, and to provide additional funds to the Reimbursement Fund to be used for this purpose. The REA requires the Commission to complete a rulemaking to adopt a reimbursement process for LPTV, TV translator, and FM stations within a year from the adoption date of the Act. This NPRM commences the proceeding to implement this directive and enable the Commission to meet this statutory deadline.

DATES: Comments may be filed on or before September 26, 2018; and reply comments may be filed on or before October 26, 2018.

ADDRESSES: Interested parties may submit comments and reply comments, identified by MB Docket No. 18–214 and GN Docket No. 12–268, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's website: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the supplementary information section of this document.

FOR FURTHER INFORMATION CONTACT: Kim Matthews of the FCC's Media Bureau, Policy Division, *Kim.Matthews@fcc.gov,* (202) 418–2154.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 18–113, adopted August 2, 2018 and released August 3, 2018. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The NPRM may result in new or revised information collection requirements. If the Commission adopts any new or revised information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the public to comment on such requirements, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission will seek specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

I. Introduction

1. In the NPRM, we propose rules to implement Congress's recent directive

that we reimburse certain LPTV, TV translator, and FM broadcast stations for costs incurred as a result of the Commission's broadcast television spectrum incentive auction. When Congress authorized the Commission to conduct the incentive auction as part of the 2012 Spectrum Act, it required the Commission to reimburse certain costs incurred by full power and Class A television licensees that were reassigned to new channels as a result of the auction, as well as certain costs incurred by multichannel video program distributors (MVPDs) to continue to carry such stations. (47 U.S.C. 1452) On March 23, 2018, Congress adopted the Reimbursement Expansion Act (REA), which amends Section 6403 of the Spectrum Act to expand the list of entities eligible to be reimbursed for auction-related expenses to include LPTV, TV translator, and FM broadcast stations, and to provide additional funds to the Reimbursement Fund to be used for this purpose. (47 U.S.C. 1452(j) through (n)) The REA also increases the funds available to reimburse full power and Class A stations and MVPDs, and provides funds to the Commission for consumer education.

2. In this NPRM, we propose a mechanism for reimbursing the newly eligible entities that is substantially similar to the process we currently use to reimburse full power and Class A licensees and MVPDs as established in the Incentive Auction R&O. *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* Report and Order, 79 FR 48442 (Aug. 15, 2014) (Incentive Auction R&O). Among the key proposals are the following:

- We tentatively conclude that LPTV and TV translator stations (collectively referred to herein as LPTV/translator stations) are eligible for reimbursement if (1) they filed an application during the Commission's Special Displacement Window and obtained a construction permit, and (2) were licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017, as required by the REA.
- We also tentatively conclude that we will reimburse LPTV/translator stations for their reasonable costs to construct the facilities authorized by the grant of the station's Special Displacement Window application, but will require stations to reuse existing equipment and take other measures to mitigate costs where possible.
- With respect to FM broadcast stations, we tentatively conclude that both full power FM stations and FM translators that were licensed and transmitting on April 13, 2017, using the facilities impacted by the repacked television station are eligible for reimbursement under the REA. We propose that this will include FM stations that incur costs because they must permanently relocate, temporarily or permanently modify their facilities, or purchase or modify auxiliary facilities to provide service to at least 80 percent of their primary station's coverage area or population during a period of time when construction work is occurring on a collocated repacked television station's facilities.
- We propose to reimburse up to 100 percent of the costs eligible for reimbursement for FM stations that must relocate permanently, or temporarily or permanently modify facilities. We seek comment on a graduated, prioritized system to reimburse FM stations for the cost to purchase or modify auxiliary equipment to avoid going silent as a result of the repacking process.
- We propose to require LPTV/translator and FM stations seeking reimbursement to file with the Commission one or more forms certifying that they meet the eligibility criteria established in this proceeding for reimbursement, providing information regarding their current broadcasting equipment, and providing an estimate of their costs eligible for reimbursement. We invite comment on ways to streamline the submission of this information for these entities.
- We propose that after the submission of information, the Media Bureau will provide eligible entities with an allocation of funds, to be available for draw down as the entities incur expenses. We propose that the Media Bureau will make an initial allocation toward eligible expenses, followed by subsequent allocation(s) as needed, to the extent funds remain for LPTV/translator stations and FM stations in the Reimbursement Fund, and we seek comment on how to determine the amount of these allocations.
- We propose to use revised versions of the financial forms currently being used by full power, Class A, and MVPD entities for purposes of reimbursing eligible LPTV/translator and FM stations, and we propose to use the same procedures to provide reimbursement payments to these newly eligible entities.
- We discuss the measures we propose to take to protect the Reimbursement Fund against waste, fraud, and abuse.

3. The Commission adopted a companion Order together with the NPRM. That Order is the subject of a separate **Federal Register** summary.

II. Background

A. Reimbursement Expansion Act

4. On March 23, 2018, Congress adopted the REA, directing the Commission to ''reimburse costs reasonably incurred'' by a TV translator or LPTV station in order to ''relocate'' to another channel or ''otherwise modify'' its facility as a result of the reorganization of broadcast television spectrum. In addition, the REA directs the Commission to ''reimburse costs reasonably incurred'' by an FM station ''for facilities necessary for such station to reasonably minimize disruption of service'' as a result of the reorganization of broadcast television spectrum. The REA also provides funding for the Commission to make payments for the purpose of consumer education relating to the reorganization of broadcast television spectrum.

5. The REA appropriates a total of $1 billion in additional funds for the Reimbursement Fund, $600 million in fiscal year 2018 and $400 million in fiscal year 2019. Of the $600 million appropriated in fiscal year 2018, the Act authorizes the Commission to use ''not more than'' $350 million to make reimbursements to full power and Class A stations and MVPDs pursuant to the Spectrum Act, ''not more than'' $150 million to reimburse TV translator and LPTV stations, ''not more than'' $50 million to reimburse FM broadcast stations, and $50 million to make ''payments solely for the purposes of consumer education relating to the reorganization of broadcast television spectrum'' pursuant to the Spectrum Act. We seek comment below on two different interpretations of the statutory provisions that relate to the availability of the $400 million appropriated in fiscal year 2019 and, specifically, on whether these funds are available to reimburse newly eligible LPTV, TV translator, and FM broadcast stations, in addition to full power, Class A, and MVPD entities.

6. The REA establishes a number of conditions on the availability and use of the $1 billion it appropriates to the Reimbursement Fund. First, it provides that these funds are available only if the Commission makes a certification ''to the Secretary of the Treasury that the funds available prior to the date of enactment'' of the REA ''in the TV Broadcaster Relocation Fund are likely to be insufficient to reimburse reasonably incurred costs'' of full power and Class A stations and MVPDs pursuant to the Spectrum Act. Second,

it provides that the funds may be used by the Commission to make payments after April 13, 2020, only if, ''before making any such payments after such date, the Commission submits to Congress a certification that such payments are necessary to reimburse'' costs reasonably incurred by entities eligible for reimbursement pursuant to the Spectrum Act and the REA. Third, the REA requires that the Commission use the funds it appropriates to make all reimbursements to full power and Class A stations, MVPDs, LPTV/translators, and FM stations by July 3, 2023, at the latest. The Commission may, however, establish an earlier date by which its reimbursement program will end if it certifies to the Secretary of the Treasury that all reimbursements to full power, Class A, and MVPDs, as specified by the Spectrum Act, and all reimbursements to LPTV/translators and FM stations, as specified by the REA, have been made.

7. Section 511(k)(3) of the REA states that duplicative payments to ''a low power television station that has been accorded primary status as a Class A television licensee under [47 CFR 73.6001(a)]'' from the Reimbursement Fund are prohibited. Specifically, such licensee may not receive reimbursement under Section 511(k)(1) of the REA, which provides for reimbursement of eligible displaced LPTV/translator stations, if such station has received reimbursement under Section 6403(b)(4)(A)(i) of the Spectrum Act (including the additional funding made available for reimbursing full power, Class A, and MVPDs in Section 511(j)(2)(A)(i) of the REA). Similarly, Section 511(k)(3)(B) specifies that if such station receives reimbursement under Section 511(k)(1) of the REA, it may not receive reimbursement under Section 6403(b)(4)(A)(i) of the Spectrum Act. Section 511(k)(3)(A) also provides that if a low power television station that has been accorded primary status as a Class A television licensee receives reimbursement ''from any other source, such station may not receive reimbursement under paragraph 1'' of Section 511(k), which permits reimbursement of costs reasonably incurred by eligible LPTV/translator stations that filed in the Special Displacement Window. Section 511(l)(1)(C) states that ''[i]f an FM broadcast station has received a payment for interim facilities from the licensee of a television broadcast station that was reimbursed for such payment'' under the Spectrum Act, ''or from any other source,'' such FM broadcast station may not receive reimbursement under the REA.

8. Finally, the REA requires the Commission to complete a rulemaking to implement a reimbursement process for LPTV, TV translator, and FM stations ''[n]ot later than 1 year'' after the adoption of the Act, or by March 23, 2019. It also directs that the rulemaking include ''the development of lists of reasonable eligible costs to be reimbursed by the Commission'' and ''procedures for the submission and review of cost estimates and other materials related to those costs consistent with the regulations developed by the Commission'' in establishing the reimbursement process for full power, Class A, and MVPD entities.

B. Incentive Auction and Transition Period

9. Congress authorized the Commission to conduct the incentive auction to help meet the Nation's growing spectrum needs. In the ''reverse auction'' phase of the incentive auction, television broadcasters had the opportunity to voluntarily relinquish some or all of their broadcast television spectrum usage rights in exchange for a share of the proceeds from a ''forward auction'' of new, flexible-use licenses suitable for mobile broadband use. In the Incentive Auction R&O, the Commission adopted its proposal to limit reverse auction participation to licensees of commercial and noncommercial educational (NCE) full power and Class A stations.

10. Stations that remained on the air after the auction were reorganized during the ''repacking'' process to occupy a smaller portion of the television spectrum, and some were assigned new channels to clear spectrum for use by wireless providers. The Commission specified that full power and Class A facilities that already were operating pursuant to a license (or a pending application for a license to cover a construction permit) on February 22, 2012, would be protected in the repacking process, as Congress required. The Commission also exercised its discretion to protect certain, additional full power and Class A stations. The Commission declined to protect other categories of facilities, including LPTV/translator stations, on the basis that such facilities are secondary in nature and protecting them would have unduly restrained the agency's flexibility in the repacking process and undermined its ability to meet the goals of the incentive auction.

11. On April 13, 2017, after the conclusion of auction bidding, the Incentive Auction Task Force and the Media and Wireless Telecommunications Bureaus released the Closing and Channel Reassignment PN, which announced the completion of the auction, the auction results, and the broadcast television channel reassignments. The release of the Closing and Channel Reassignment PN also commenced the 39-month post-auction transition period (transition period) during which all reassigned stations must transition to their post-auction channel assignments. Reassigned stations had three months, or until July 12, 2017, to file construction permit applications for any minor changes to their facilities needed to operate on their new channels. Following the three-month application filing deadline, stations have up to 36 months, or until July 13, 2020, to transition to their new channels.

12. To ensure an orderly, managed transition process, the Commission established a phased construction schedule for the transition period and grouped all full power and Class A television stations transitioning to new channels into one of 10 transition phases. The Closing and Channel Reassignment PN announced the specific transition phase, phase completion date, and testing period applicable to each transitioning station.

C. LPTV and TV Translator Stations and FM Broadcasters

13. LPTV and TV Translators. LPTV/translator stations are secondary to full power television stations, which may be authorized and operated ''without regard to existing or proposed low power TV or TV translator stations.'' LPTV/translator stations were not eligible to participate in the incentive auction and were not eligible for reimbursement pursuant to the Spectrum Act. In addition, while the Spectrum Act required the Commission to make ''all reasonable efforts'' to preserve the coverage area and population served of eligible full power and Class A television stations in the incentive auction repacking process, as noted above, LPTV/translator stations were not protected. Accordingly, the Incentive Auction R&O noted the potential for a significant number of LPTV/translator stations to be displaced as a result of the auction or repacking process which would require them either to find a new channel from the smaller number of channels that remain in the reorganized broadcast television bands or to discontinue operations altogether.

14. The Commission has taken a number of steps to mitigate the impact of the auction and repacking process on LPTV/translator stations. The Media

Bureau opened a special filing window on April 10, 2018 to offer operating LPTV/translator stations that are displaced an opportunity to select a new channel. That displacement window closed on June 1, 2018. In total, the Commission received 2,159 applications during the window which are currently under consideration. Applicants will have the opportunity to resolve any mutual exclusivity through settlement or engineering amendments filed prior to the close of a Settlement Window to be announced by the Media Bureau. Should applications remain mutually exclusive after the Settlement Window, a schedule will be set for them to be resolved subject to the Commission's competitive bidding rules.

15. Some LPTV/translator stations have already been displaced. Pursuant to our rules, LPTV/translator stations that were on channels 38 through 51 must terminate operations if they receive notice of likely interference to a new 600 MHz Band licensee that intends to commence operations or conduct first field application (FFA) testing on their licensed 600 MHz spectrum. The Commission has granted a number of 600 MHz licenses, which authorized the licensees to construct facilities on their new spectrum. T-Mobile USA (T-Mobile), one of the recipients of those licenses, provided notices to certain LPTV and TV translator stations that it would commence operations or conduct FFA testing on some of its licensed spectrum before the opening of the Special Displacement Window. The Commission therefore provided tools to these ''early displaced'' LPTV/translator stations to ensure that they would be able to continue to broadcast. One of these tools was for a displaced station to submit a displacement application prior to the opening of the Special Displacement Window with a request for waiver of the current displacement freeze, and file for Special Temporary Authority to temporarily operate the facility proposed in the displacement application. The Tools PN further explained that applications filed with a request for waiver of the displacement freeze would be treated as if filed on the last day of the Special Displacement Window and processed in accordance with the rules for that window. Approximately 340 displacement applications were filed prior to the Special Displacement Window pursuant to the Tools PN. Independent of the Tools PN, T-Mobile created a Supplemental Reimbursement Plan whereby it committed to pay the reasonable costs associated for such stations to move from a temporary channel to a permanent channel if the station's displacement application for the temporary channel was not granted and the station therefore needs to move twice. In addition, T-Mobile and PBS announced in June 2017 that T-Mobile had committed to cover the costs for PBS translator stations to relocate their frequencies following the incentive auction.

16. FM Broadcasters. FM broadcasters were not eligible to participate in the auction, were not subject to the repacking process, and were not eligible for reimbursement pursuant to the Spectrum Act. While FM spectrum was not subject to reorganization in the repacking process, FM stations may be affected by the reorganization of broadcast television spectrum if, for example, an FM station shares a tower with a repacked TV station. Changes to the facilities of the TV station could affect the FM station if, for example, the FM station antenna must be moved, either temporarily or permanently, to accommodate the TV station's change or if an FM station needs to power down, or cease operating temporarily, to permit a repacked TV broadcaster to modify its facilities. In total, we estimate this could include fewer than 500 full-service stations.

D. Full Power, Class A, and MVPD Reimbursement Process

17. As we initiate the proceeding to reimburse additional entities affected by the reorganization of broadcast television spectrum, we find the current eligibility criteria, process, and procedures associated with the Reimbursement Fund instructive. We summarize pertinent details below.

18. The Spectrum Act requires the Commission to reimburse full power and Class A broadcast television licensees for costs ''reasonably incurred'' in relocating to their new channels assigned in the repacking process, and to reimburse MVPDs for costs ''reasonably incurred'' in order to continue to carry the signals of stations relocating to new channels as a result of the repacking process or a winning reverse auction bid. Congress specified that these reimbursements be made from the Reimbursement Fund, and that the Commission make all reimbursements within three years after completion of the forward auction (Reimbursement Period). In the Incentive Auction R&O, the Commission concluded that, with respect to broadcast licensees, the Spectrum Act's reimbursement mandate applies only to full power and Class A television licensees that are involuntarily reassigned to new channels in the repacking process.

19. In the Incentive Auction R&O, the Commission established the reimbursement process that is currently in place. Following the release of the Closing and Channel Reassignment PN, entities seeking reimbursement provided information regarding their existing broadcasting equipment and their plan to accomplish the channel transition, including an estimate of their eligible costs, by filing FCC Form 2100, Schedule 399 (the Reimbursement Form), in the Media Bureau's Licensing and Management System (LMS). Estimated costs could be provided by the entity or by using predetermined cost estimates based on the Catalog of Potential Expenses and Eligible Costs (Catalog of Reimbursement Expenses, or Catalog) developed by the Media Bureau. The Catalog sets forth categories of expenses that are most likely to be commonly incurred by broadcasters and MVPDs as a result of the repacking process, together with ranges of prices for the potential expenses. The Media Bureau, with assistance from a contractor with extensive experience in television broadcast engineering and Federal funds management (Fund Administrator), reviews the cost estimates.

20. The Commission's goal is to ensure that reimbursement funds are allocated fairly and consistently across all eligible entities and, at the same time, to have sufficient flexibility to make reasoned allocation decisions that maximize the funds available for reimbursement. To this end, reimbursement funds are being allocated in tranches, with the allocation amounts calculated based in part on the total amount of repacking expenses reported on the estimated cost forms as well as the amount of money available in the Reimbursement Fund. On October 16, 2017, an initial allocation of approximately $1 billion was made, which represented approximately 52 percent of the then-current verified cost estimates for commercial stations and MVPDs, and 62 percent for NCE broadcasters. A further allocation of approximately $742 million was made on April 16, 2018, providing all repacked full power and Class A stations and MVPDs access to approximately 92.5 percent of their then-current verified cost estimates. The Commission will continue to monitor closely the draw-down of the Reimbursement Fund to determine if additional allocations are warranted.

21. The allocation is available for draw down and reimbursement from the U.S. Treasury as the entities incur

expenses eligible for reimbursement and submit invoices that are approved for payment. Entities draw down against their individual allocations using the Reimbursement Form to report incurred expenses and upload invoices or receipts into LMS. To facilitate the disbursement of reimbursement payments, entities were also required to submit payment instructions to the Commission by (i) submitting a signed and notarized FCC Form 1876, along with a bank account verification letter or redacted bank statement that confirms ownership of the bank account, for each Facility ID/File Number receiving a reimbursement payment; and (ii) entering bank account information for the reimbursement payment recipient in the CORES Incentive Auction Financial Module.

22. Prior to the end of the three-year Reimbursement Period, entities must provide information regarding their actual and remaining estimated costs and will be issued a final allocation, if appropriate, to cover the remainder of their eligible costs. If any allocated funds remain in excess of the entity's actual costs determined to be eligible for reimbursement, those funds will revert back to the Reimbursement Fund. In addition, if an overpayment is discovered, even after the end of the Reimbursement Period, entities will be required to return the excess to the Commission.

III. Notice of Proposed Rulemaking

A. Amounts Available for Reimbursement

23. As an initial matter, we seek comment on how to interpret the statute with respect to amounts available to reimburse eligible entities pursuant to the REA using funds appropriated for fiscal year 2019. Section 511(j)(1) of the REA appropriates funds ''to the TV Broadcaster Relocation Fund established by [47 U.S.C. 1452(d)]''—specifically, $600 million for fiscal year 2018 and $400 million for fiscal year 2019. Section 511(j)(2) of the REA discusses the ''availability of funds'' and provides that, if the Commission makes the required certification, ''amounts made available to the TV Broadcaster Relocation Fund by [Section 511(j)(1)] shall be available to the Commission to make'' certain specified payments. In particular, Section 511(j)(2)(A) states that funds appropriated in Section 511(j)(1) shall be available to the Commission to make payments required by the Spectrum Act and the REA, including ''not more than'' $350 million to reimburse full power and Class A stations and MVPDs from fiscal year 2018 funds, ''not more than'' $150 million to reimburse LPTV and TV translator stations from fiscal year 2018 funds, and ''not more than'' $50 million to reimburse FM broadcast stations from fiscal year 2018 funds. It also states that funds appropriated in Section 511(j)(1) shall be available to the Commission to make payments ''solely for the purposes of consumer education relating to the reorganization of broadcast television spectrum,'' including $50 million from the funds available for fiscal year 2018. While Section 511(j)(2)(A) clearly delineates the availability of funds for fiscal year 2018, it does not do so with respect to fiscal year 2019 funding.

24. We therefore seek comment on whether the $400 million appropriated to the Reimbursement Fund for fiscal year 2019 is only available to reimburse eligible full power and Class A stations and MVPDs for costs reasonably incurred in the repacking process or whether the REA also permits this money to be used to reimburse LPTV, TV translators, and FM broadcast stations, as well as to fund the Commission's consumer education efforts.

25. If the Commission were to interpret the statute to find that it is authorized to reimburse eligible LPTV, TV translator, and FM broadcast stations and to fund consumer education efforts from the fiscal year 2019 funds, in addition to reimbursing full power, Class A, and MVPD entities, we seek comment on whether and how the Commission should prioritize this funding. While we have received estimates of the costs that full power and Class A stations anticipate as a result of their channel reassignments, we have no estimates to date of the costs that will be incurred by LPTV, TV translator, and FM stations. Moreover, as we have indicated, we anticipate that the estimates for full power and Class A stations will increase as their construction process continues. It is therefore possible that there will be significant demand on the Reimbursement Fund from all categories of eligible entities such that the total amount available may not be sufficient to cover all their eligible expenses. If so, should the Commission prioritize the payments to full power and Class A stations over those of FM stations and LPTV/translator stations? We also seek comment on whether the Commission should prioritize the payment of full power and Class A stations over any aggregate costs exceeding the limits described in Section 511(j)(2) of $50 million for FM stations and $150 million for LPTV/translator stations. In other words, should the Commission consider reimbursement of costs above those aggregate amounts for FM and LPTV/translator stations only after full power and Class A expenses are fully satisfied? We seek comment on these issues.

B. LPTV and TV Translator Stations—Eligibility and Expenses

26. As discussed above, the REA authorized the Commission to reimburse ''costs reasonably incurred by a television translator or low power television station on or after January 1, 2017, in order for such station to relocate its television service from one channel to another channel or otherwise modify its facility as a result of the reorganization of broadcast television spectrum'' under Section 6403(b) of the Spectrum Act. In this section, we seek comment on issues related to eligibility and expenses under the REA provisions for reimbursement of displaced LPTV and TV translator stations.

1. Stations Eligible for Reimbursement

a. LPTV/Translator Stations

27. The REA provides that costs reasonably incurred by certain ''television translator station[s] or low power television station[s]'' to relocate channels or modify facilities as a result of the reorganization of broadcast television spectrum are eligible for reimbursement. The REA specifies that these two types of stations are to be defined pursuant to the definition included in 47 CFR 74.701. We interpret this provision to mean that LPTV and TV translator stations, as defined by § 74.701 of our rules, may be eligible for reimbursement under the Reimbursement Fund if they meet the additional eligibility criteria discussed below, and we seek comment on this interpretation.

(i) Special Displacement Window Eligibility Criteria

28. The REA provides that ''[o]nly stations that are eligible to file and do file an application in the Commission's Special Displacement Window are eligible to seek reimbursement.'' The Media Bureau has provided that, to be eligible to file in the Special Displacement Window, a station had to be an LPTV/translator station that was ''operating'' on April 13, 2017—the date of the release of the Closing and Channel Reassignment PN. Furthermore, for this purpose, a station is ''operating'' if it had licensed its authorized construction permit facilities or had an application for a license to cover on file with the Commission on that date. The station must also be ''displaced . . . as a result of the

broadcast television spectrum incentive auction.'' Therefore, we tentatively conclude that, to be eligible for reimbursement, a station must be an LPTV/translator station that was eligible to file and did file an application during the Special Displacement Window. As noted above, the Commission received 2,159 applications during the window which, subject to the other eligibility requirements, represents the largest possible universe of LPTV/translator stations that could be eligible for reimbursement.

29. While the threshold eligibility criteria set forth in the REA require only that a station was ''eligible to file and [did] file an application'' in the Special Displacement Window, we tentatively conclude that, to be eligible for reimbursement, a station's displacement application filed during the Special Displacement Window (or prior to the window with grant of a waiver, or subsequently amended prior to the close of the Settlement Window) must be granted. Although this requirement is not mandated by the REA, we believe that this additional criterion is essential to ensure the integrity of the reimbursement program and is consistent with Section 511(k)(1), which requires reimbursement of only costs reasonably incurred to ''relocate . . . television service from one channel to another channel . . . or otherwise modify [a] facility.'' We believe that eligibility must be limited to stations with valid displacement construction permits obtained through the procedural mechanisms associated with the Special Displacement Window that will permit them to construct the displacement facilities for which they receive reimbursement. Otherwise, providing reimbursement to eligible stations whose applications are not granted will result in reimbursement for expenses related to facilities that will not be constructed to ''relocate . . . television service from one channel to another channel . . . or otherwise modify [a] facility.'' We seek comment on this tentative conclusion.

30. An LPTV/translator station that filed in the Special Displacement Window whose application is dismissed may subsequently file a displacement application when the Media Bureau lifts the freeze on the filing of such applications. We tentatively conclude that such stations will be eligible for reimbursement under the REA if their later-filed displacement application is subsequently granted. Although they would receive their construction permit through a displacement application that was not filed during the Special Displacement Window, these stations would meet the threshold eligibility criteria under the REA because such stations were ''eligible to file and [did] file an application'' in the Special Displacement Window. In addition, such stations are affected by the reorganization of broadcast television spectrum in the same way as other displaced LPTV/translator stations. We seek comment on whether and how such stations could be included in the reimbursement process considering that they will not be able to meet the same filing deadlines applicable to other eligible LPTV/translator stations that have applications granted in the Special Displacement Window and, depending on the demand on the Reimbursement Fund, this difference could result in a lack of reimbursement resources. Would allowing such stations to be eligible for reimbursement be appropriate given the finite resources of the Reimbursement Fund? Should such stations be eligible for reimbursement only to the extent funds remain available for LPTV/translator stations in the Reimbursement Fund?

(ii) ''Licensed and Transmitting'' Eligibility Criteria

31. The REA provides that only stations that were ''licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017,'' are eligible to receive reimbursement under the REA. The statute also specifies that ''the operation of analog and digital companion facilities may be combined'' for purposes of the ''licensed and transmitting'' requirement. We propose that, consistent with the eligibility requirement for participation in the Special Displacement Window, stations that were licensed or that filed a license to cover application prior to April 13, 2017, be considered ''licensed'' for purposes of REA reimbursement eligibility.

32. Because neither Commission rules nor the REA specifies a definition of ''transmitting,'' we propose a definition that relies on the Commission's minimum operating schedule rule for commercial full power television broadcast stations. That rule provides that commercial full power television stations must ''operate'' not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week. Therefore, we propose that, in order to be considered ''transmitting,'' stations seeking reimbursement under the REA must have been operating not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week for 9 of the 12 months prior to April 13, 2017. We believe that, given the finite nature of the Reimbursement Fund, it is necessary to give reasonable meaning to the eligibility criteria set forth in the REA. By defining ''transmitting'' in the same way as we do for full power stations, we intend to prioritize reimbursement for LPTV/translator stations that provided more robust service to the public over those that were on the air for only a brief period each day. Because a translator station is required to retransmit the signal of a television station, we would expect that most, if not all, translators would meet this requirement. We believe that this requirement reflects the legislative mandate that only ''transmitting'' stations be eligible to receive reimbursement. We seek comment on this proposal.

33. We propose that stations be required to certify compliance with the minimum operating requirement we adopt as part of the reimbursement process. LPTV/translator stations may be required to provide evidence to support this certification, such as documentation of the programming aired by the station during the period of time in question, electric power bills, or other evidence showing that the station was transmitting during this time period. The Commission previously determined that, with respect to the incentive auction reimbursement program, ''audits, data validations, and site visits are essential tools in preventing waste, fraud, and abuse, and that use of these measures will maximize the amount of money available for reimbursement.'' With respect to reimbursing low-power broadcast stations, we contemplate that a third party firm on behalf of, or in conjunction with, the Media Bureau may conduct audits, data validations, site visits or other verifications to substantiate the supporting evidence and representations of entities that certify that they meet the eligibility criteria adopted in this proceeding to the extent necessary. We propose to direct such entities to make available any relevant documentation upon request from the Commission or its contractor. We emphasize that a false certification may result in disqualification and other sanctions provided for in the Communications Act and the Commission's rules. We seek comment on these proposals.

b. Other Eligible Stations

34. Early Displaced Stations. We propose that LPTV and TV translator stations that were displaced early, were eligible to file in the Special Displacement Window, and filed a displacement application prior to the

Special Displacement Window will be eligible for reimbursement under the REA. As described above, some LPTV/translator stations were displaced prior to the Special Displacement Window as a result of T-Mobile's decision to commence wireless operations in the 600 MHz band. As noted above, approximately 340 such stations filed a request for waiver of the displacement freeze and a request for an STA, and the Media Bureau has treated these filings as if filed on the last day of the Special Displacement Window. Such applications will be processed in accordance with the rules for that window. Because these stations meet the definition of LPTV/translator stations eligible for reimbursement under the REA, and their displacement applications were considered as filed during the Special Displacement Window, we propose that these stations will be eligible for reimbursement if they meet all of the other eligibility requirements. We seek comment on this proposal.

35. Replacement Translators. In the Incentive Auction R&O, the Commission concluded that digital low power TV translator stations authorized pursuant to § 74.787(a)(5) of the Commission's rules (analog-to-digital replacement translators, or DRTs) that were displaced by the incentive auction and repacking process are eligible to file displacement applications during the Special Displacement Window. Because DRTs are potentially displaced as a result of the reorganization of broadcast television spectrum, were eligible to file in the Special Displacement Window, and are considered ''TV translators'' and licensed under the same Part 74 rules as other TV translator stations, we propose that displaced DRTs also are eligible for reimbursement pursuant to the REA, as long as they meet the other eligibility requirements. We seek comment on this proposal.

36. In the LPTV DTV Third R&O, the Commission established a new digital-to-digital replacement translator (DTDRT) service to allow eligible full power television stations to recover lost digital service area that could result from the repacking process. The Commission concluded that full power stations may begin to file for DTDRTs beginning with the opening of the Special Displacement Window on April 10, 2018, and ending one year after completion of the incentive auction transition period. Although they were eligible to file in the Special Displacement Window, and DTDRTs are similar to DRTs in that they are considered ''TV translators'' and licensed under the same Part 74 rules as other TV translator stations, we tentatively conclude that new DTDRTs are not eligible for reimbursement under the REA because they would not have been ''licensed and transmitting'' for 9 of the past 12 months prior to April 13, 2017, as required by the statute. In addition, even if they were otherwise eligible under the statutory criteria, DTDRTs are newly established facilities and thus are not ''relocat[ing] . . . from one channel to another channel'' or ''modify[ing]'' their facilities as required by the statute. We seek comment on this tentative conclusion.

37. Class A Television Licensees. As noted above, Section 511(k)(3) of the REA prohibits duplicative payments from the Reimbursement Fund to ''a low power television station that has been accorded primary status as a Class A television licensee under [47 CFR 73.6001(a)].'' Specifically, Section 511(k)(3)(A) provides that such licensee may not receive reimbursement under Section 511(k)(1) of the REA if such station has received reimbursement under Section 6403(b)(4)(A)(i) of the Spectrum Act (including the additional funding made available for reimbursing full power, Class A, and MVPDs in Section 511(j)(2)(A)(i) of the REA). We interpret this language to underscore that Class A stations reimbursed from funds for Class A stations under the Spectrum Act or the REA are not eligible for reimbursement from funds dedicated to LPTV/translator reimbursement under the REA. Such Class A stations were not eligible to file an application during the Special Displacement Window and thus do not qualify for reimbursement for LPTV/translator stations under the REA. Similarly, Section 511(k)(3)(B) specifies that a low power television station that has been accorded primary status as a Class A television licensee that receives reimbursement under Section 511(k)(1) of the REA may not receive reimbursement under Section 6403(b)(4)(A)(i) of the Spectrum Act. We interpret this language to underscore that such stations that filed in the Special Displacement Window are not eligible for reimbursement under Section 6403(b)(4)(A)(i) because they are not full power or Class A stations involuntarily reassigned to a new channel in the repacking process. We seek comment on our interpretations.

2. Expenses Eligible for Reimbursement

a. Costs Reasonably Incurred

38. The REA provides that the Commission shall ''reimburse costs reasonably incurred by a television translator station or low power television station on or after January 1, 2017, in order for such station to relocate its television service from one channel to another channel or otherwise modify its facility as a result of the reorganization of broadcast television spectrum'' under the Spectrum Act. As discussed above, on April 13, 2017, we released the Closing and Channel Reassignment PN, which announced the completion of the auction, the auction results, the broadcast television channel reassignments made through repacking, and the 600 MHz Band plan reflecting the reallocations of broadcast television spectrum for flexible use and the frequencies that will serve as part of the 600 MHz Band guard bands. We interpret the REA to provide for reimbursement of reasonably incurred relocation costs for LPTV/translator stations that were displaced ''as a result of the reorganization of broadcast television spectrum'' under the Spectrum Act, which includes displacement resulting from full power and Class A channel reassignments made in the Closing and Channel Reassignment PN and from the reallocation of broadcast television spectrum for flexible use by a 600 MHz Band wireless licensee or for use as 600 MHz Band guard bands.

39. While the Commission's reorganization of television spectrum under Section 1452(b) of the Spectrum Act was completed with the issuance of the Closing and Channel Reassignment PN, the Commission also afforded reassigned stations the opportunity to file applications for alternate channels or expanded facilities during two filing windows that ended on September 15 and November 2, 2017. We anticipate that some LPTV/translator stations that filed applications during the Special Displacement Window may have been displaced by grant of an application filed during one of the alternate channel/expanded facilities filing windows, rather than the channel reassignments specified in the Closing and Channel Reassignment PN. While applications filed during the two filing windows by reassigned full power and Class A stations to modify their repacked facilities were not required under Section 1452(b) of the Spectrum Act, they may have resulted in displacement of LPTV/translator stations making those stations eligible to file applications in the Special Displacement Window. Accordingly, we seek comment on whether the REA's requirement that we reimburse costs reasonably incurred ''as a result of the reorganization of broadcast television spectrum'' extends to include costs

incurred by LPTV/translator stations that were displaced solely due to modifications made by full power and Class A facilities as a result of receiving authorizations through these two filing windows.

40. We tentatively conclude that the equipment and other costs necessary for an eligible LPTV/translator station to construct the facilities authorized by grant of the station's Special Displacement Window application shall be considered costs ''reasonably incurred,'' and seek comment on this tentative conclusion. This approach is similar to the reimbursement program used for full power and Class A stations with the following distinction. In implementing the Spectrum Act's reimbursement provisions for full power and Class A stations reassigned to new channels, the Commission concluded that the Act required that it reimburse costs ''that are reasonable to provide facilities comparable to those that a broadcaster . . . had prior to the auction that are reasonably replaced or modified following the auction, as a result of the repacking process, in order to allow the broadcaster to operate on a new channel . . . .'' This included reimbursement ''for modification or replacement of facilities on the post-auction channel consistent with the technical parameters identified in the Channel Reassignment PN.'' The Spectrum Act required that the Commission make ''all reasonable efforts'' in the repacking process to preserve coverage area and population served of full power and Class A stations. Thus, the post-auction channel reassignments specified in the Closing and Channel Reassignment PN were made at stations' existing locations and largely replicated stations' pre-auction facilities.

41. We do not believe that a similar ''comparable'' facilities reimbursement standard can, as a technical matter, be applied to displaced LPTV/translator stations. Displaced LPTV/translator stations, unlike full power and Class A stations, may need to move their transmitter and antenna locations in addition to changing channels. In order to continue to provide service to viewers from the new site, stations may need to increase their effective radiated power and height, which may require the purchase of transmitters, transmission lines, and other equipment that is not ''comparable'' to their existing equipment. Therefore, we tentatively conclude that the equipment and other costs necessary for an eligible LPTV/translator station to construct the facilities authorized by grant of the station's Special Displacement Window application shall be considered ''reasonably incurred,'' consistent with other reimbursement procedures and processes we propose herein (such as requiring broadcasters to reuse equipment and take other steps to mitigate costs where possible). We propose to permit LPTV/translators to be reimbursed for both ''hard'' expenses, such as new equipment and tower rigging, and ''soft'' expenses, such as legal and engineering services, but, as discussed below, propose to direct the Media Bureau to prioritize, if necessary, the payment of certain hard costs necessary to operate the stations over soft costs to assure that such costs are recoverable to the extent possible under a limited fund. We seek comment on these tentative conclusions and on any alternative reimbursement approaches for eligible LPTV/translator stations. For example, should we permit as costs ''reasonably incurred'' those costs necessary to provide replacement facilities of comparable coverage? When reimbursing low-power broadcasters for equipment, to what extent could the Commission reimburse the costs for full service mask filters that could promote spectrum efficiency, even if the station technically could operate at its new location with a stringent or simple mask? Should such equipment be considered a ''reasonably incurred'' expense that is related to the repack because it would promote greater use of the television band or should it be considered an upgrade that is not eligible for reimbursement?

42. The REA limits reimbursement for LPTV/translators to ''costs . . . incurred . . . on or after January 1, 2017.'' We propose to interpret this provision to require that an LPTV/translator station have either expended funds or ordered equipment or services for a cost otherwise eligible for reimbursement on or after that date in order to be eligible for reimbursement pursuant to the REA. We invite comment on this proposal.

b. Equipment Upgrades and Reuse of Existing Equipment

43. In implementing the Spectrum Act's reimbursement provisions, the Commission concluded that it would not reimburse stations for new, optional features in equipment that are not already present in the equipment being replaced, and we propose to apply this same approach to eligible LPTV/translator stations. In addition, the Commission required full power and Class A stations seeking reimbursement to reuse their own equipment to the extent possible, rather than acquiring new equipment to be paid for from the Reimbursement Fund, and to ''provide a justification when submitting their estimated cost form as to why it is reasonable under the circumstances to purchase new equipment rather than modify their . . . current equipment. . . .'' We propose to adopt a similar requirement that displaced LPTV/translator stations reuse their own equipment to the extent possible, and that displaced LPTV/translator stations seeking reimbursement provide a justification why it is reasonable to purchase new equipment rather than reuse existing equipment. We seek comment on these proposals.

c. Interim Facilities

44. We propose to exclude ''interim facilities'' from the type of expenses eligible for reimbursement under the REA. In the Incentive Auction R&O, the Commission concluded that stations that are assigned a new channel in the incentive auction repacking process may need to use interim facilities to avoid prolonged periods off the air during the transition, and, thus, the Commission decided to reimburse full power and Class A stations for such facilities under the Spectrum Act reimbursement provisions. Because of their lower operating power and the fact that the engineering work that is involved in changing channels is more limited than for full power television stations, we believe it is unlikely that LPTV/translator stations will construct interim facilities as part of the displacement process. Furthermore, LPTV/translators are actually displaced at a time determined either by the receipt of a notice from a wireless carrier that the wireless carrier intends to commence operations in the new 600 MHz wireless band or the phase completion date for a full power or Class A station pursuant to the transition schedule. Because LPTV/translators will have less time to construct interim facilities as a practical matter due to the timing of their actual displacement, interim facilities are unlikely to be utilized by such stations. We believe this proposal will also maximize the limited reimbursement funds available for all eligible LPTV/translator stations and seek comment on this analysis.

d. Lost Revenues

45. The REA, like the 2012 Spectrum Act, prohibits reimbursement of LPTV/translator stations for ''lost revenues.'' In the Incentive Auction R&O, the Commission defined ''lost revenues'' to include ''revenues that a station . . . loses as a direct or ancillary result of the reverse auction or the repacking process.'' We propose to adopt a similar definition of ''lost revenues'' for

purposes of reimbursing LPTV/translator stations: ''revenues that a station loses as a direct or ancillary result of the reorganization of broadcast television spectrum, including the repacking process and the reallocation of UHF spectrum in conjunction with the incentive auction.'' Under this definition and consistent with the Commission's approach in connection with reimbursing full power and Class A stations, we would not reimburse a station's loss of advertising revenues while it is off the air during its displacement, or for refunds a station is required to make for payments for airtime as a result of being off the air in order to implement a channel change. We seek comment on our proposal and on whether there are other additional categories of costs that LPTV/translator stations may incur that would constitute ''lost revenues'' not eligible for reimbursement under the REA.

e. Costs To Resolve Mutually Exclusive Applications

46. The REA provides that ''[t]he Commission may not make reimbursement . . . for costs incurred to resolve mutually exclusive applications, including costs incurred in any auction of available channels.'' Applications filed during the Special Displacement Window that remain mutually exclusive will be resolved through competitive bidding. We interpret the prohibition against reimbursing for ''costs incurred in any auction'' to mean that the Commission may not reimburse LPTV/translator station auction bidders under the REA for the costs related to filing an auction application associated with a competitive bidding process, participating in such an auction, and winning bid payments. We seek comment on this interpretation. We also tentatively conclude that costs associated with the Settlement Window to resolve mutual exclusivity will not be reimbursed under the REA. Thus, we propose not to reimburse stations for costs in resolving mutual exclusivity, including engineering studies and preparing application amendments, or the payment of other stations' expenses as part of a settlement. However, we propose to reimburse for costs reasonably incurred in constructing the facilities resulting from settlement and coordination between mutually exclusive applicants. We seek comment on these proposals.

f. Stations With Other Sources of Funding

47. We seek comment on whether stations that receive or have received reimbursement of certain expenses from sources of funding other than the Reimbursement Fund should receive reimbursement for those expenses from the Reimbursement Fund. As an initial matter, we note that Section 511(k)(3)(A) specifies that Class A stations that receive reimbursement from ''any other source'' may not receive reimbursement under the REA. While the REA does not set forth the same requirement for LPTV stations generally, we seek comment on whether a similar prohibition should extend to LPTV stations because a cost that is reimbursed by another source of funding is not a ''cost . . . incurred'' by the station under Section 511(k)(1). For example, we seek comment on whether displaced LPTV/translator stations that have received reimbursement from T-Mobile for a particular expense should receive reimbursement for that expense pursuant to Section 511(k)(1). As mentioned above, T-Mobile, which holds a number of 600 MHz licenses, began deploying its spectrum in 2017, thereby displacing a number of LPTV/translator stations before the Special Displacement Window opened on April 10, 2018. With respect to these displaced stations that began operating a displacement facility pursuant to an STA, T-Mobile has established a Supplemental Reimbursement Program, to be administered by T-Mobile. According to T-Mobile, it will reimburse eligible licensees ''for the costs that they reasonably incur to comply with the permanent channel assignments that they may receive under the Special Displacement Window to the extent those channel assignments differ from the channel assignment these licensees may build following displacement from the 600 MHz band due to T-Mobile's rapid broadband deployment.'' Similarly, T-Mobile has reportedly awarded a grant to PBS to ''provide funding to enable public television translators . . . to move to new displacement channels regardless of the reason for displacement.'' We seek comment on how to address the interplay between the expanded Reimbursement Fund and such pre-REA funding for LPTV relocation.

48. We also seek comment on whether a displaced LPTV/translator station that has received a state governmental grant to construct its displacement facility should be eligible for reimbursement under the REA. Similarly, we seek comment on whether the licensee of a displaced station that has solicited and received donations to construct its displacement facility should be eligible for reimbursement from the REA.

49. Finally, we seek comment on whether displaced LPTV/translator stations should be required to indicate on their reimbursement submissions whether they have received or expect to receive reimbursement from another source as part of the reimbursement process. If so, should they provide documentation of the amount that they have received or expect to receive and the associated eligible expenses covered by that alternate reimbursement? We seek comment on whether stations that are eligible to receive reimbursement from other sources for certain expenses (*e.g.,* insurance) should be required to pursue those alternative sources before requesting reimbursement for those expenses pursuant to the REA, and on the type of documentation such stations should be required to provide.

C. FM Broadcast Stations—Eligibility and Expenses

50. As mentioned above, in the REA, Congress allocated funds for the purpose of reimbursing costs ''reasonably incurred by an FM broadcast station for facilities necessary for such station to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum.'' In this section, we seek comment on issues related to eligibility and expenses under the REA provisions for reimbursement of FM stations.

1. Stations Eligible for Reimbursement

a. FM Broadcast Stations and FM Translator Stations

51. Congress defined ''FM broadcast stations'' in the REA by referencing §§ 73.310 and 74.1201 of the Commission's rules. Section 73.310 defines an FM broadcast station as ''[a] station employing frequency modulation in the FM broadcast band and licensed primarily for the transmission of radiotelephone emissions intended to be received by the general public.'' Additionally, § 74.1201 defines an FM translator as ''[a] station in the broadcasting service operated for the purpose of retransmitting the signals of an AM or FM radio broadcast station or another FM broadcast translator station without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide radio broadcast service to the general public.'' Given these references, we tentatively conclude that ''FM broadcast station'' as used in the REA includes full-service FM stations and FM translator stations. We seek comment on this tentative conclusion. Further, although low-power FM (LPFM) stations were not specifically referenced in the REA, we note that

such stations meet the criteria for ''FM broadcast station'' set forth in § 73.310 of the rules and they are licensed under Part 73 of the rules like full-service FM stations. We therefore seek comment on whether LPFM stations should also be considered ''FM broadcast stations'' for reimbursement purposes.

b. Licensed and Transmitting at Time of Repack

52. We tentatively conclude that to be eligible for reimbursement under the REA, an FM station must have been licensed and transmitting on April 13, 2017, and using facilities impacted by a repacked television station. We also tentatively conclude that only those costs associated with the impact at that location will be considered eligible. The REA seeks to reimburse costs ''reasonably incurred'' by FM stations to ''reasonably minimize disruption of service'' as a result of the reorganization of broadcast television spectrum, but provides no other additional specificity as to the eligibility of FM stations for reimbursement. We believe it is both necessary and appropriate to impose some reasonable standards on the eligibility of FM stations to be reimbursed from the Reimbursement Fund. We tentatively conclude that we should place the same limitation on FM stations that is applied to LPTV/translator stations. That is, we first propose a cut-off date of April 13, 2017, by which the FM station had to be licensed and transmitting. We choose this date because it is the date on which reverse auction winners and the television stations subject to the repack were identified in the Closing and Channel Reassignment PN. Thus, we tentatively conclude that any FM station that began operating on a facility or at a location impacted by a repacked television station after that date voluntarily assumed the risk of any potential disruption of service to the FM station. We tentatively conclude that any costs incurred by FM stations that undertook such a risk are not ''reasonably incurred'' under the statutory standard and thus are not eligible for reimbursement pursuant to the REA. We propose that FM stations will be required to certify that they were licensed and transmitting at the facility implicated by the reorganization of broadcast television spectrum on April 13, 2017, and seek comment on this proposal. The REA requires reimbursement ''to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum under [47 U.S.C. 1452(b)].'' As an initial matter, we tentatively conclude that an FM station can experience a service disruption ''as a result of the reorganization of broadcast television spectrum under [47 U.S.C. 1452(b)]'' either because a full power or Class A television station has been reassigned to a new channel in the Closing and Channel Reassignment PN or because a full power or Class A television station relinquished spectrum usage rights in the reverse auction. In either case, the full power or Class A television station may need to modify its facilities (*e.g.,* dismantling equipment in the case of a license relinquishment station) that may impact the FM station. We read the statutory language to require a causal link between the facilities being reimbursed and the activities associated with the repacked full power or Class A television station, and likewise interpret this provision to mean that only the FM broadcast facilities directly impacted by the repacked television station are eligible for reimbursement. We believe our interpretation of this REA language is consistent with Congress's provision of limited funds for FM facility reimbursement. We invite comment on this interpretation of the REA. We also seek comment on whether the REA's requirement that we reimburse costs incurred by FM stations to ''reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum under [47 U.S.C. 1452(b)]'' extends to include costs that were incurred by FM stations solely due to modifications made by full power and Class A facilities as a result of receiving authorizations through the two alternate channel/expanded facilities filing windows.

c. Categories of Eligible FM Stations

53. In addition, we believe it is both necessary and appropriate to impose eligibility requirements for FM stations that define the way an FM station could ''reasonably incur'' costs as the result of a ''disruption of service'' caused by ''the reorganization of broadcast television spectrum'' as required by the REA. We believe a large majority of FM stations will not incur any costs or encounter any disruption of service as a result of the reorganization of broadcast television spectrum. However, in limited circumstances, as defined herein, some FM stations may be affected because they are collocated with, or adjacent, or in close proximity to, a repacked television station such that construction work on the repacked television station's facility necessarily results in a disruption of service to the FM station and requires the FM station to incur costs. Accordingly, we tentatively conclude that only stations that are collocated with, or adjacent, or in close proximity to, a repacked television station are eligible for reimbursement and that the FM station will be required to certify to that fact and identify the television station. We seek comment on these conclusions. We believe that only stations in the following categories will encounter any disruption of service as a result of the reorganization of broadcast television spectrum such that they would be eligible for reimbursement under the REA:

- Category (1)—Stations Forced to Relocate Permanently. We propose that this eligibility category include FM stations required either to vacate their towers, and which therefore incur costs for alternative facilities at a different site, or to relocate their antennas to a different level of their current towers. Either change would modify the station's transmissions and would thus require prior Commission approval. We anticipate that there will be a very small number of FM stations if any in this eligibility category.
- Category (2)—Stations Forced to Temporarily Dismantle Equipment or Make Other Changes Not Requiring Commission Approval. We propose that this eligibility category include FM stations required temporarily to dismount or disassemble equipment, most likely antennas, in order to accommodate work on a television antenna or a tower. We propose that this category also include FM stations required to physically move their transmitter to accommodate new television transmission equipment. While such an equipment move may not be temporary, it is not the kind of facility modification that would change the station's transmissions, and thus would not require Commission approval. We propose this category also include other types of necessary equipment modifications that do not require Commission approval. We anticipate there will be a very small number of FM stations in this eligibility category.
- Category (3)—Stations Forced to Temporarily Reduce Power or Cease Transmission on Their Primary Facility to Accommodate Antenna or Tower Modifications. We propose that this eligibility category would include those FM stations that are required to reduce power or go off the air to protect workers making modifications to television facilities on a tower from RF exposure. The length of time during which a station would have to reduce power or cease transmissions could range from hours to weeks or even months. Such stations could incur costs

to build or modify auxiliary facilities to permit FM broadcast service to continue during this period. Category (3) would include stations with no existing auxiliary facilities and stations that are unable to access auxiliary transmission facilities. Category (3) would also include stations that have existing auxiliary facilities, but whose facilities do not provide substantial (80+ percent) coverage of the primary station's coverage area or population. FM stations in other eligibility categories could also qualify as Category (3) stations if they otherwise meet the reimbursement requirements. We anticipate that this category of stations will be the most numerous of eligible FM stations but is still likely to include only a limited number of FM stations.

54. We believe that reimbursing FM stations for the types of service disruptions described in these categories is consistent with our statutory mandate to reimburse FM stations for ''costs . . . for facilities necessary for such station to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum,'' and we seek comment on our interpretation. We invite comment on the scope of our categories above and ask commenters specifically to explain whether there are additional categories of service disruption that should be reimbursed. We tentatively conclude that FM stations would be required to certify which eligibility category they satisfy, and we seek comment on that conclusion.

55. Section 511(l)(1)(C) specifies that an FM broadcast station that has received payment for ''interim facilities'' from either a station that was reimbursed under the Spectrum Act or ''from any other source'' may not receive ''any reimbursements'' under the REA. Thus, as required by the statutory language, we propose that if an FM broadcast station has received such payment for ''interim facilities,'' it is ineligible for any reimbursement under the REA. We tentatively conclude that FM stations would be required to certify whether they have received payment for such interim facilities.

2. Expenses Eligible for Reimbursement

56. The REA states that the Commission shall provide reimbursement for ''costs reasonably incurred by an FM broadcast station for facilities necessary for such station to reasonably minimize disruption of service as a result of the reorganization of broadcast television spectrum.'' We note that the statute does not require reimbursement of costs to ensure there is no disruption of service at all. We tentatively conclude that some level of disruption of service to eligible FM stations is reasonable, and we do not propose to reimburse costs incurred to avoid reasonable disruptions. We also believe that the public interest requires that we seek to maximize the limited funds available for all facilities to address the most significant service disruptions to ensure that the most needed facilities are fully funded. We seek comment below on how to define what costs are ''reasonably incurred'' and on how to interpret the phrase ''to reasonably minimize disruption of service'' as contemplated by the REA, and we propose an approach for prioritization of reimbursement to stations with a greater level of service disruption to preserve limited funds.

a. Costs Reasonably Incurred

57. As described below, we propose that eligible costs for Category (1) and Category (2) stations are similar to eligible costs for full power and Class A stations in the repack and therefore should be reimbursed in a similar manner. We propose, however, that the cost for Category (3) stations should be subject to a graduated priority system and reimbursable only when the disruption of service is significant enough to make it reasonable for a station to incur costs to minimize the disruption, and then on a scale that balances the level of the service disruption with the need to maximize the finite funds and ensure the most significantly impacted facilities are fully funded. We seek comment on these proposals as detailed below.

(i) Replacing or Restoring Facilities—Category (1) and (2) Stations

58. The existing reimbursement program for full power and Class A stations seeks to reimburse costs reasonably incurred for stations to move their facilities to a new channel that was assigned as a result of the incentive auction repacking process using reasonable efforts to preserve each station's coverage area and population served. We believe it is in the public interest to develop a similar standard for the reimbursement of costs associated with Category (1) stations because the nature of the displacement of the FM station and the types of costs incurred are similar. We seek comment on these conclusions. We believe the goal for Category (1) stations should be to rebuild their facility to reasonably replicate the station's coverage area and population served, similar to the standard applicable to full power and Class A stations. Further, we believe that Category (1) stations should be eligible for reimbursement for costs similar to full power and Class A stations to move and reconstruct the current facilities at a new site or tower location, including costs of equipment, professional services such as engineering, and tower and construction work. We believe that such stations are likely to experience the most significant disruption of service of all FM stations because they will be required to entirely or partially dismantle and reconstruct their facilities. As a result, if sufficient funds allocated to reimburse FM stations exist in the Reimbursement Fund, we believe that Category (1) stations should be reimbursed for up to 100 percent of eligible costs similar to the reimbursements provided to impacted full power and Class A stations. As noted above, we believe only a very small number of stations are likely to be included in this category and therefore we do not believe the reimbursement of these stations is likely to be a primary resource demand on the Reimbursement Fund. We seek comment on these conclusions.

59. Examples of reimbursable equipment costs that we believe could be reasonably incurred include transmitters, antennas, coaxial cable or wave guides, and associated equipment needed to reasonably replicate the service being lost. We propose that existing equipment should be reused as appropriate. To the extent that existing equipment cannot be reused, we propose that new equipment may be reimbursable if needed to reasonably replicate service and coverage area. We propose that the costs of engineering to determine what technical facilities are needed to replace existing service at a new site should be considered reimbursable expenses, as well as transportation costs of physically moving equipment to a new site or new location on a tower and any engineering costs associated with the move. We seek comment on these proposals.

60. We believe it is also in the public interest to develop a similar standard for eligible expenses for reimbursement of Category (2) stations because the types of costs incurred are also similar. We seek comment on these conclusions. We believe the goal for Category (2) stations should be to restore the station's existing facility. For example, Category (2) stations could reasonably incur costs that are related to their need to temporarily dismantle equipment or modify their physical facilities. Examples of reimbursable costs could include costs of equipment, professional services such as engineering, and tower and construction work, similar to the

costs incurred by full power and Class A stations. Additionally, similar to Category (1), the service disruptions associated with these costs are likely to be significant in magnitude, but the number of stations incurring such costs is likely to be very small and not the most significant drain on the Reimbursement Fund. Therefore, we propose that, if sufficient funds allocated to reimburse FM stations exist in the Reimbursement Fund, Category (2) stations should be reimbursed for up to 100 percent of eligible costs similar to full power and Class A stations. We seek comment on this proposal.

(ii) Interim Facilities—Category (3) Stations

61. In the full power and Class A reimbursement program, the costs of interim facilities are reimbursed in the same manner as other costs incurred for a station to change channels. With respect to the types of costs that would qualify for reimbursement as interim facilities, we seek to apply the same approach to FM stations. We propose that Category (3) stations be reimbursed for the cost of constructing new auxiliary facilities or upgrading existing auxiliary facilities. This would permit FM stations to continue broadcasting while their primary facilities are off the air due to the need to protect tower personnel working on modifications related to the reorganization of broadcast television spectrum. Reimbursable costs could include costs of equipment, professional services such as engineering, and tower and construction work.

62. As described in more detail below, we tentatively conclude that reimbursement of interim facility costs should be linked to the level of service disruption avoided by resorting to interim facilities, and therefore propose to reimburse on a graduated priority system reflecting a percentage of total costs for these interim facilities. We further tentatively conclude that it is not unreasonable for there to be some temporary disruption of service to permit construction work or maintenance on a collocated, adjacent, or nearby station. FM stations regularly power down or remain silent for temporary periods to accommodate tower or antenna work and transmitter maintenance, and we conclude from this fact that such actions are ordinary and reasonable occurrences. We therefore believe that it is appropriate to reimburse costs for interim facilities only if they are needed to avoid service interruptions that would otherwise exceed ordinary construction or maintenance requirements. Furthermore, operating from interim facilities does not require service that is identical to the station's primary service. We believe this different approach is justified by the different standard enunciated in the REA, requiring us to consider what expenses ''reasonably minimize'' disruption of service rather than the Spectrum Act's mandate to reimburse expenses resulting from a channel change. Furthermore, we anticipate that the majority of reimbursement requests from FM stations will be in Category (3), and that they will account for the majority of the demand by FM stations for resources from the Reimbursement Fund. Thus, we tentatively conclude that a graduated scale is in the public interest because it properly reflects the level of service disruption, which could vary from hours to weeks or even months, and therefore balances our need to preserve finite funds for the most significant instances of service disruption. Under this proposal, reimbursement percentages in excess of those proposed below might be available if, after making all the payments for interim facilities and other eligible expenses, there is sufficient money to pay a higher reimbursement percentage to FM stations in the Reimbursement Fund. We seek comment on these proposals herein.

63. We believe that the amount of broadcaster reimbursement for interim facilities should be linked to the amount of time the FM station is off the air due to the reorganization of broadcast television spectrum. These time periods will likely range from hours to, in extreme and hopefully rare cases, months. Additionally, we believe that the times of day during which stations are off the air should also play a part in our calculus. Some stations may be subject to limited service disruptions, for instance, if tower work or work on co-tenant antennas is limited to nighttime hours which would minimize broadcast time lost during peak listening hours. Such stations will not be as adversely affected as those required to reduce power or go off-air for extended periods of time. As to the latter group of affected stations, we find that the reimbursement for interim facilities should be greater the longer they are required to be off the air. The longer the lost airtime, the more service disruption and, thus, the greater justification for reimbursement for the construction of permanent auxiliary facilities.

64. Further, we note that transmissions from interim facilities would not exactly replicate the areas or populations covered from the licensed transmitter site. Thus, we propose that 80 percent of an FM station's coverage area or covered population should be replicated by the interim facility in order to constitute reasonably minimal disruption of service. In another context, when a rule requires provision of a certain strength signal to an entire community, the Commission has held that when a station provides that signal strength to 80 percent or more of either the area or the population of the community, such a signal may be considered to be in substantial compliance with the rule. We believe this 80 percent standard is an acceptable yardstick for measuring interim FM service, especially given that near-exact replication of a station's coverage area from an alternative site, in many if not most cases, may not be achieved without significant expense. Accordingly, we propose that FM signal coverage of either 80 percent of the area or 80 percent of the population covered by an FM station at its licensed site be considered to be substantial interim coverage and, thus, tentatively conclude it would meet the REA standard of reasonably minimizing disruption of service. We invite comment on this proposal, including comment on the costs of requiring a greater or lesser level of interim service.

65. We seek comment on the need to develop a prioritization scheme for reimbursement of FM broadcast stations under either statutory interpretation of the amounts available to reimburse such stations. We seek comment on the following graduated priority system of reimbursement for interim facilities constructed to minimize service disruptions to FM broadcast stations forced to go off-air due to the reorganization of broadcast television spectrum. We note that additional percentages for reimbursement might be available if, after making all the payments for interim facilities and other eligible expenses, there is sufficient money to pay a higher reimbursement percentage to FM stations in the Reimbursement Fund. If adopted, we propose to direct the Media Bureau to determine whether and what higher percentage of funds should be paid to Category (3) stations.

- Stations Off-Air for Less Than 24 Hours, or Off-Air Only During Hours from 10:00 p.m.–6:00 a.m. Local Time or Less Than Five Non-Peak Broadcast Hours Per Day: No reimbursement. We propose that such periods off-air be considered a de minimis disruption of service.
- Stations Off-Air for 24 Hours to 10 Days: May be reimbursed up to 50 percent of eligible costs reasonably

incurred to construct new auxiliary facilities, to upgrade existing auxiliary facilities to cover 80 percent of the covered area and/or population of the existing facility, or to build interim facilities for eligible secondary services.

- Stations Off-Air for 11 Days to 30 Days: May be reimbursed up to 75 percent of eligible costs reasonably incurred to construct new auxiliary facilities, to upgrade existing auxiliary facilities to cover 80 percent of the covered area and/or population of the existing facility, or to build interim facilities for eligible secondary services.
- Stations Off-Air for More than 30 Days: May be reimbursed up to 100 percent of eligible costs reasonably incurred to construct new auxiliary facilities, to upgrade existing auxiliary facilities to cover 80 percent of the covered area and/or population of the existing facility, or to build interim facilities for eligible secondary services.

66. We seek comment on these issues and on whether reimbursing FM stations on a graduated scale is in the public interest. In particular, we seek comment on whether failing to pro-rate the amount of reimbursement for interim facilities might reduce reimbursement for all affected FM stations, given the total amount of money available to FM stations for reimbursements. We also request comment on the time off-air benchmarks set forth in paragraph 65, and whether they should be adjusted up or down. In particular, we seek comment on whether time off-air during nighttime and early morning hours should be considered de minimis and, if not, what level of reimbursement for auxiliary facilities should be allowed for such stations to provide interim nighttime service. If commenters disagree with the proposed reimbursement scheme, what alternative proposals do they recommend to ensure we allocate the limited funds fairly and equitably across all FM stations?

67. We acknowledge that the graduated scale could be subject to manipulation where the construction project is prolonged in order to reach a number of days that correlates to a higher reimbursement percentage. We believe that this concern is mitigated by the fact that the FM station will ordinarily not be in control of the repacked television station's construction project, and that a repacked television station is unlikely to prolong for the benefit of the FM station the time period that it employs vendors and service providers to perform construction. Nevertheless, in order to minimize the potential for gaming the system, we seek comment on whether to pay reimbursement for interim stations only after the period of time has expired and the number of days can be and is certified by the station. We also seek comment on whether to require certification by the FM station concerning the number of days the station could not broadcast from its primary facility due to construction work of a repacked television station. As noted herein, we intend to conduct audits, data validations, and site visits, as appropriate, to prevent waste, fraud, and abuse. As part of that process, we could require a repacked television station to provide, upon request, a statement or other information regarding the dates that work was being done that impacted the FM station. We seek comment on these issues and on additional ways we can minimize this potential problem.

68. To the extent that a Category (3) station is required to lease tower space for a new auxiliary facility, we propose to allow reimbursement only for those lease payments covering the period of time during which the primary station is off the air due to the reorganization of broadcast television spectrum. In other words, we will not reimburse for tower lease payments except during the period when the repacked television station's construction work is actively preventing the FM station from broadcasting from its primary facility and not for any period of time thereafter. We request comment on this proposal.

b. Channel Change Equipment

69. We expect that no FM broadcast station will be forced to change its frequency as a result of the reorganization of broadcast television spectrum and, thus, we tentatively conclude that expenses for retuning or replacing antennas or transmitters to accommodate channel changes will not be eligible for reimbursement. We seek comment on this expectation.

c. Equipment Upgrades and Reuse of Existing Equipment

70. As noted above, full power and Class A stations can be reimbursed only for comparable facilities, while we propose that LPTV/translators may in certain cases require modified facilities due to the fact that LPTV/translators may need to change locations and not just channels. Similarly, we tentatively conclude that the full power and Class A comparable facilities reimbursement standard cannot be applied in the same manner to FM stations in Categories (1) and (2) because the goal is to reasonably replicate the service type and area from a different location (Category (1)) or restore service using alternate equipment (Category (2)). In some cases, this can be accomplished using existing equipment or its equivalent, but in other cases this will require modified or differently configured equipment. For instance, a move of an FM station's antenna to a lower spot on the same tower could, in order to replicate the station's existing signal contours, require replacement equipment with an increase in ERP, either by using a transmitter with higher power output or an antenna with higher gain. In the (we expect rare) cases in which a station is forced to move to another tower, reasonably replicating current service might involve both of those options and/or design and construction of an antenna with a directional pattern, in order to avoid prohibited interference to other FM stations.

71. To the extent that a Category (1) station would propose to construct a new tower, we propose to reimburse tower construction expenses only upon a showing that no space is available on other local towers that would enable it to reasonably replicate current service. Even if it were able to make such a showing, we seek comment on whether and how we should discount any reimbursement for tower construction costs, given that such ''vertical real estate'' carries with it the potential for revenue generation for the FM station, perhaps in substantial amounts. We seek comment on this proposal.

72. Similar to our tentative conclusion above concerning LPTV/translators, we also propose that we will follow the Commission's determination in the existing reimbursement program and not reimburse stations for new, optional features in equipment that are not already present in the equipment being replaced. For example, we would not reimburse an analog-only FM station to add hybrid digital capability. A station that contemplates a rule-compliant modification to a higher station class or to an expanded service area as part of a required move may do so, but we propose to limit reimbursement only to costs needed to return the station to its original service area. We seek comment on these proposals. While the REA contains a provision precluding duplicative payments relating only to ''interim facilities,'' we tentatively conclude that FM broadcast stations that receive or have received reimbursement of expenses from sources of funding other than the Reimbursement Fund, such as co-located television stations and/or tower owners providing reimbursement under contractual provisions, will not receive reimbursement for those expenses from

the Reimbursement Fund. We tentatively conclude that a cost that is reimbursed by another source of funding is not a ''cost . . . incurred'' by the FM broadcast station under Section 511(l)(1)(A). We seek comment on this tentative conclusion.

73. In addition, the Commission required full power and Class A stations seeking reimbursement to reuse their own equipment to the extent possible, rather than acquiring new equipment to be paid for from the Reimbursement Fund, and to ''provide a justification when submitting their estimated cost form as to why it is reasonable under the circumstances to purchase new equipment rather than modify their . . . current equipment . . .'' We propose to adopt a similar requirement that FM stations reuse their own equipment, to the extent possible. As noted above, we expect that FM stations will not be required to change frequencies, so there should be no issues regarding channel-related equipment modifications. Thus, we believe it is reasonable to require FM stations seeking reimbursement to provide a justification why it is reasonable to purchase new equipment rather than reuse existing equipment. We seek comment on this proposal.

d. Lost Revenues

74. The REA, like the 2012 Spectrum Act, prohibits reimbursement of FM broadcast stations for ''lost revenues.'' In the Incentive Auction R&O, the Commission defined ''lost revenues'' to include ''revenues that a station . . . loses as a direct or ancillary result of the reverse auction or the repacking process.'' We propose to adopt a similar definition of ''lost revenues'' for purposes of reimbursing FM broadcast stations: ''revenues that a station loses as a direct or ancillary result of the reorganization of broadcast television spectrum, including the reverse auction and the repacking process.'' Under this definition, we would not reimburse a station's loss of advertising revenues while it is off the air implementing either replacement or interim facilities, or for refunds a station is required to make for payments for airtime as a result of being off the air in order to implement such a facility change. We seek comment on our proposal and whether there are other additional categories of costs that FM stations may incur that would constitute ''lost revenues'' not eligible for reimbursement under the REA.

D. Reimbursement Process

75. Our goal is to develop a reimbursement process for the newly eligible entities that is as simple and straightforward as possible to minimize both the costs associated with reimbursement as well as the burdens on affected parties and the Commission. At the same time, we are committed to a process that is fair and equitable to all eligible entities and that maximizes the funds available for reimbursement by avoiding waste, fraud, and abuse.

76. As discussed below, we propose to reimburse eligible LPTV, TV translator, and FM broadcast stations using a procedure that is substantially similar to what is currently being used by the Commission to provide reimbursements to full power and Class A stations and MVPDs. We believe that using a process and resources that have proven effective is a reasonable approach as it should result in a smooth and expeditious reimbursement process for LPTV/translator and FM stations. At the same time, we propose to make certain adjustments and simplifications to this process as we describe below. We invite comment generally on whether and how the process might be further streamlined in light of the fact that the money available to reimburse LPTV/translator and FM stations is less than that allocated to full power, Class A, and MVPD entities, individual entity expenses may also be expected to be smaller, and many of the stations seeking reimbursement may already have incurred the costs associated with the transition.

1. Eligibility Certification

77. We propose to require LPTV/translator and FM stations that believe they meet the eligibility requirements and intend to request reimbursement for eligible expenses, to file a form (Eligibility Certification) indicating that they intend to request reimbursement funds. We seek comment on this proposal. We propose that entities be required to certify on the Eligibility Certification that they meet the eligibility criteria adopted in this proceeding and provide documentation or other evidence to support their certification. For example, LPTV/translator stations may be required to provide evidence to support their certification that they meet the minimum operating requirement adopted in this proceeding to be eligible for reimbursement under the REA. Such evidence could include evidence of the programming aired by the station during the period of time in question, as well as electric power bills, and we seek comment on other types of evidence that might be used to demonstrate that a station was transmitting during the relevant time period. Similarly, FM stations could be required to identify the repacked TV station that caused it to be eligible for reimbursement and to provide evidence to support its certification that it was off the air for a sufficient period of time to be eligible for reimbursement for interim facilities, and the period of time it was, or expects to be, silent. As stated previously, the Commission previously determined that, with respect to the incentive auction reimbursement program, ''audits, data validations, and site visits are essential tools in preventing waste, fraud, and abuse, and that use of these measures will maximize the amount of money available for reimbursement.'' With respect to reimbursing low-power broadcast stations, we contemplate that a third party firm on behalf of, or in conjunction with, the Media Bureau may conduct audits, data validations, site visits or other verifications to substantiate the supporting evidence and representations of entities that certify that they meet the eligibility criteria adopted in this proceeding to the extent necessary. We propose to direct such entities to make available any relevant documentation upon request from the Commission or its contractor. We emphasize that a false certification may result in disqualification and other sanctions provided for in the Communications Act and the Commission's rules. We invite comment on this approach and on possible other kinds of evidence and/or documentation the Media Bureau should require LPTV/translator and FM stations to submit to support their Eligibility Certifications.

2. Estimated Expenses

78. We also propose to require LPTV/translator and FM stations to list on a revised Reimbursement Form their existing broadcasting equipment and the types of costs they expect to incur. In the full power and Class A program, the Media Bureau developed a list of the types of costs stations were most likely to incur together with a range of prices applicable to such expenses. This cost catalog is embedded in the Reimbursement Form used by full power and Class A stations. We intend to develop a revised cost catalog to help LPTV/translator and FM stations provide estimated costs. Alternatively, these stations, like full power and Class A stations, may choose instead to provide their own estimates or actual costs. As noted above, in the Incentive Auction R&O, the Commission required full power and Class A broadcasters and MVPDs eligible for reimbursement to file a form providing estimates of their channel relocation costs. We propose to adopt a consistent approach for entities

newly eligible for reimbursement. Specifically, similar to the current process used by full power and Class A stations and MVPDs using the Reimbursement Form, we propose that eligible LPTV/translator and FM stations submit a revised version of our existing Reimbursement Form that will contain a new cost catalog. The new cost catalog will offer ranges of prices for the potential expenses that can be used to generate total estimated costs. For example, LPTV/translator stations may be required to indicate whether they will need to purchase new equipment in order to operate on their new channel, or whether they can reuse some of their existing equipment. FM stations may be required to indicate whether they will need to move to a different tower or a different location on the same tower, and whether they will have to go silent or power down temporarily to move or to permit work on their existing tower as a result of changes being made to a repacked full power or Class A station.

79. We note that some LPTV/translator and FM stations will already have incurred costs eligible for reimbursement by the time we adopt rules in this proceeding and begin accepting Eligibility Certifications and Reimbursement Forms. We propose to permit entities to indicate their actual costs instead of providing estimates on the Reimbursement Form for costs already incurred in their initial filings with the Commission. We seek comment on this proposal.

80. We tentatively conclude that the Reimbursement Form for use by newly eligible entities should be simpler and easier to use than the forms used by full power and Class A stations and MVPDs. We seek comment on how we can modify the Form to make it simpler to use. We propose to consider methods by which the revised cost catalog could more readily determine a reasonable estimate for newly eligible stations than the current form used by full power and Class A stations. Are there other ways that a reasonable estimate of expenses can be more readily derived than under the current process? We tentatively conclude that an approach that would eliminate altogether the requirement to submit estimated expenses would not provide the Commission with information concerning the potential total demand on the Reimbursement Fund and other information necessary for the Media Bureau and Fund Administrator to make reasoned allocation decisions and determine whether reimbursement claims are reasonable, as required by the REA. To the extent, however, that parties disagree with our tentative conclusion, we seek comment on how a reimbursement process without the submission of estimates would work? Without estimates, how would the Media Bureau determine allocations that assure a fair and equitable distribution of the finite Reimbursement Fund? Supporters of a reimbursement process without estimated expenses should also address how such an approach is consistent with Section 511(m)(2) of the REA. We seek comment on our tentative conclusions.

3. Reimbursement Allocations

81. We propose that, once the Media Bureau completes its review of the Eligibility Certifications and Reimbursement Forms, it will issue an initial allocation from the Reimbursement Fund to each eligible LPTV/translator and FM station, which will be available to the entity to draw down as expenses are incurred. In the context of the existing reimbursement process for full power and Class A stations, the Media Bureau exercised discretion to determine the appropriate allocation amount based on the circumstances and information available from submitted Reimbursement Forms. Consistent with this approach, as noted in the Order below, we direct the Media Bureau to make allocation decisions for stations eligible for reimbursement under the REA. The amount of the initial allocation, as well as the total amount allocated to each entity, will depend in part on the number of LPTV/translator stations and the number of FM stations that file an Eligibility Certification and the amount available for reimbursement for each type of entity. For example, the Media Bureau may give entities an allocation that is a percentage of their total costs eligible for reimbursement, similar to the approach we took for full power and Class A stations and MVPDs. Alternatively, it could allocate the same fixed amount to entities that must take similar steps as a result of, or are similarly affected by, the reorganization of broadcast television spectrum (*i.e.,* a fixed amount to all FM stations that must be off the air for 11–30 days, and a different fixed amount to all FM stations that must be off the air for 24 hours to 10 days). We invite comment on each of these approaches.

82. Subsequent Allocations. We propose that, after the initial allocation of reimbursement funds to eligible LPTV/translator and FM stations, the Media Bureau may issue one or more subsequent allocation(s). The timing and amount of these subsequent allocation(s) will depend in part on the funds remaining in the LPTV/translator and FM portions of the Reimbursement Fund, the eligible expenses entities have incurred, and the Commission's goal in terms of the percentage or total dollar amount of eligible costs we expect to be able to cover for each entity based on the steps they must take as a result of the reorganization of broadcast television spectrum. We seek comment generally on this proposed reimbursement process.

83. Prioritization of Certain Costs. To the extent that the total amount of reimbursement funds available to LPTV/translators or FM stations may not be not sufficient to cover all eligible expenses at the end of the program, it may be necessary to establish a prioritization scheme for reimbursing eligible expenses. We propose to direct the Media Bureau to perform this prioritization, if necessary. In order to assist the Media Bureau, we seek comment on whether we should prioritize the payment of certain costs, such as certain equipment and engineering expenses, over other types of expenses, such as project management fees, for LPTV/translator and FM stations. For instance, project management fees have proven difficult for the Media Bureau and Fund Administrator to validate in the context of the ongoing reimbursement effort for full power and Class A stations and MVPDs. Given that the amount available for reimbursement for LPTV/translator and FM stations may not be sufficient to cover all eligible expenses incurred by these entities, we believe it may make sense to prioritize, at least initially, certain expenses to maximize the possibility that these costs are covered for all eligible entities. The Media Bureau could, for example, limit the initial allocation provided to LPTV/translator stations to an amount necessary to cover the costs related to any necessary transmitter, transmission line, and antenna equipment, as well as engineering expenses necessary to locate a new channel. Any funds remaining in the LPTV/translator portion of the Reimbursement Fund after these expenses are covered could be distributed in a subsequent allocation. We seek comment generally on this approach. If we were to prioritize certain equipment and engineering costs, which such costs should be prioritized for LPTV/translator stations and which should be prioritized for FM stations?

4. Requests for Reimbursement

84. Once the Commission has issued an initial allocation to each eligible LPTV/translator and FM station, we

propose to allow these entities to submit claim(s), together with any required supporting invoices and other cost documentation, for reimbursement for any eligible costs they have incurred, using a method consistent with the existing process. We propose that the Media Bureau, together with the Fund Administrator, will review each reimbursement claim and, if approved, authorize a draw down from the entity's individual allocation. We propose to allow entities to submit multiple reimbursement requests as they incur expenses throughout the reimbursement period. As noted above, we also propose to allow entities that have already incurred costs at the time they make their initial filings with the Commission to submit actual costs instead of estimates. We seek comment on these proposals.

E. Financial Forms and Procedures

85. We propose to use revised versions of the financial forms currently being used by full power, Class A, and MVPD entities for purposes of reimbursing eligible LPTV/translator and FM stations. We also propose to use the same procedures to provide reimbursement payments to these newly eligible entities. These procedures were set forth in the Financial Procedures PN. We seek comment generally on this approach. Are there any procedures that we should alter for purposes of reimbursing these newly eligible entities?

86. Specifically, we propose to require LPTV, TV translators, and FM stations to submit their Eligibility Certification, cost estimates, and subsequent requests for reimbursement for expenses they have incurred, together with any required supporting documentation, using the Reimbursement Form (FCC Form 2100, Schedule 399), which we plan to revise for this purpose. As required for full power and Class A stations and MVPDs, we propose that LPTV/translator and FM stations submit the Reimbursement Form electronically via the Commission's LMS database. We propose to require LPTV/translator and FM stations to use a procedure and form similar to our existing FCC Form 1876 and file electronically in the CORES Incentive Auction Financial Module. Entities will be able to track reimbursement payments using the Auction Payments component of the CORES Incentive Auction Financial Module.

87. As discussed in the Order below, we direct the Media Bureau together with the Office of Managing Director to revise these reimbursement forms and procedures as necessary for use by LPTV/translator and FM stations.

F. Measures To Prevent Waste, Fraud, and Abuse

88. As with full power, Class A, and MVPD entities, we intend to establish strong measures to protect against waste, fraud, and abuse with respect to disbursements from the Reimbursement Fund for newly eligible entities. The Media Bureau, with assistance from the Fund Administrator, will review the information entities provide in their Eligibility Certification and may require additional information to validate whether the entity is, in fact, eligible for reimbursement pursuant to the criteria established in this proceeding. We propose to require entities to document their actual expenses, including by providing all relevant invoices and receipts, and to retain other relevant records substantiating their certifications and reimbursement claims. Similar to the existing requirement for full power, Class A, and MVPD entities, we also propose to require LPTV/translator and FM stations seeking reimbursement to retain all relevant documents pertaining to construction or other reimbursable changes or expenses for a period ending not less than 10 years after the date on which it receives final payment from the Reimbursement Fund. We invite comment on these proposals.

89. We anticipate that the Reimbursement Form we develop for use by LPTV/translator and FM stations will contain certifications similar to those on the Reimbursement Form used by full power, Class A, and MVPD entities. Thus, an LPTV/translator or FM station seeking reimbursement will be required to certify, inter alia, that it believes in good faith that it will reasonably incur all of the estimated costs that it claims as eligible for reimbursement on the estimated cost form, it will use all money received from the Reimbursement Fund only for expenses it believes in good faith are eligible for reimbursement, and it will comply with all policies and procedures related to reimbursement. In addition, we intend to conduct audits, data validations, and site visits, as appropriate, to prevent waste, fraud, and abuse and to maximize the amount of money available for reimbursement. To ensure transparency with respect to the Reimbursement Fund, we plan to make eligibility and actual cost information available to the public as well as information regarding Reimbursement Fund disbursements. If we discover evidence of intentional fraud, we intend to refer the matter to the Commission's Office of Inspector General or to law enforcement for criminal investigation, as appropriate. We invite comment on these proposals. Are there other steps we should take to avoid potential fraud and ensure that appropriate safeguards are applied to the Reimbursement Fund?

IV. Order

90. The companion Order, which was adopted together with the NPRM, appears separately in the **Federal Register**.

V. Procedural Matters

A. Initial Regulatory Flexibility Analysis

91. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this present Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

B. Need for, and Objectives of, the Proposed Rules

92. The NPRM proposes rules to implement Congress's recent directive that the Commission reimburse certain Low Power Television (LPTV), television translator (TV translator), and FM broadcast stations for costs incurred as a result of the Commission's broadcast television spectrum incentive auction. When Congress authorized the Commission to conduct the incentive auction as part of the 2012 Spectrum Act, it required the Commission to reimburse certain costs incurred by full power and Class A television licensees that were reassigned to new channels as a result of the auction, as well as certain costs incurred by multichannel video program distributors (MVPDs) to continue to carry such stations. On March 23, 2018, Congress adopted the Reimbursement Expansion Act (REA), which amends Section 6403 of the Spectrum Act to expand the list of entities eligible to be reimbursed for auction-related expenses to include LPTV, TV translator, and FM broadcast

stations, and to provide additional funds to the Reimbursement Fund to be used for this purpose. The REA also increases the funds available to reimburse full power and Class A stations and MVPDs, and provides funds to the Commission for consumer education.

93. The NPRM proposes a mechanism for reimbursing the newly eligible entities that is substantially similar to the process currently used by the Commission to reimburse full power and Class A licensees and MVPDs as established in the Incentive Auction R&O. The NPRM:

- Tentatively concludes that LPTV and TV translator stations (collectively referred to as LPTV/translator stations) are eligible for reimbursement if (1) they filed an application during the Commission's Special Displacement Window and obtained a construction permit, and (2) were licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017, as required by the REA.
- Tentatively concludes that the Commission will reimburse LPTV/translator stations for their reasonable costs to construct the facilities authorized by the grant of the station's Special Displacement Window application, but will require stations to reuse existing equipment and take other measures to mitigate costs where possible.
- Tentatively concludes that both full power FM stations and FM translators that were licensed and transmitting on April 13, 2017, using the facilities impacted by the repacked television station are eligible for reimbursement under the REA. The NPRM proposes that this will include FM stations that incur costs because they must permanently relocate, temporarily or permanently modify their facilities, or purchase or modify auxiliary facilities to provide service to at least 80 percent of their primary station's coverage area or population during a period of time when construction work is occurring on a collocated repacked television station's facilities.
- Proposes to reimburse up to 100 percent of the costs eligible for reimbursement for FM stations that must relocate permanently, or temporarily or permanently modify facilities, and seeks comment on a graduated, prioritized system to reimburse FM stations for the cost to purchase or modify auxiliary equipment to avoid going silent as a result of the repacking process.
- Proposes to require LPTV/translator and FM stations seeking reimbursement to file with the Commission one or more forms certifying that they meet the eligibility criteria established in this proceeding for reimbursement, providing information regarding their current broadcasting equipment, and providing an estimate of their costs eligible for reimbursement. The NPRM invites comment on ways to streamline the submission of this information for these entities.
- Proposes that after the submission of information, the Media Bureau will provide eligible entities with an allocation of funds, to be available for draw down as the entities incur expenses. The NPRM proposes that the Media Bureau will make an initial allocation toward eligible expenses, followed by subsequent allocation(s) as needed, to the extent funds remain for LPTV/translator stations and FM stations in the Reimbursement Fund, and seeks comment on how to determine the amount of these allocations.
- Proposes to use revised versions of the financial forms currently being used by full power, Class A, and MVPD entities for purposes of reimbursing eligible LPTV/translator and FM stations, and proposes to use the same procedures to provide reimbursement payments to these newly eligible entities.
- Discusses the measures the Commission proposes to take to protect the Reimbursement Fund against waste, fraud, and abuse.

C. Legal Basis

94. The proposed action is authorized pursuant to sections 1, 4, 303, and 336(f) of the Communications Act of 1934, as amended, Section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012, and Section 511, Division E, Title V of the Consolidated Appropriations Act, 2018, Public Law 115–141 (2018), 47 U.S.C. 151, 154, 303, 336(f), 1452.

D. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

95. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

96. Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The Small Business Administration has established a size standard for this industry of 750 employees or less. Census data for 2012 show that 841 establishments operated in this industry in that year. Of that number, 819 establishments operated with less than 500 employees. Based on this data, we conclude that a majority of manufacturers in this industry are small.

97. Audio and Video Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing electronic audio and video equipment for home entertainment, motor vehicles, and public address and musical instrument amplification. Examples of products made by these establishments are video cassette recorders, televisions, stereo equipment, speaker systems, household-type video cameras, jukeboxes, and amplifiers for musical instruments and public address systems. The SBA has established a size standard for this industry, in which all firms with 750 employees or less are small. According to U.S. Census data for 2012, 466 audio and video equipment manufacturers were operational in that year. Of that number, 465 operated with fewer than 500 employees. Based on this Census data and the associated size standard, we conclude that the majority of such manufacturers are small.

98. Radio Stations. This economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public.'' The SBA has created the following small business size standard for this category: Those having $38.5 million or less in annual receipts. Census data for 2012 shows that 2,849 firms in this category operated in that year. Of this number, 2,806 firms had annual receipts of less than $25,000,000, and 43 firms had annual receipts of

$25,000,000 or more. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded $38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

99. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,429 stations and the number of commercial FM radio stations to be 6,741, for a total number of 11,170. Of this total, 9,898 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) in October 2014. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,125. NCE stations are non-profit, and therefore considered to be small entities. Therefore, we estimate that the majority of radio broadcast stations are small entities.

100. Low Power FM Stations. The same SBA definition that applies to radio stations would apply to low power FM stations. As noted above, the SBA has created the following small business size standard for this category: Those having $38.5 million or less in annual receipts. The Commission has estimated the number of licensed low power FM stations to be 2,150. In addition, as of June 30, 2017, there were a total of 7,604 FM translator and FM booster stations. Given that low power FM stations and FM translators and boosters are too small and limited in their operations to have annual receipts anywhere near the SBA size standard of $38.5 million, we will presume that these licensees qualify as small entities under the SBA definition.

101. We note again, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of ''small business'' is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, our estimate of small radio stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

102. Television Broadcasting. This economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts. The 2012 economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than $25 million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. We therefore estimate that the majority of commercial television broadcasters are small entities.

103. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

104. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 390. These stations are non-profit, and therefore considered to be small entities.

105. There are also 2,309 LPTV stations, including Class A stations, and 3,727 TV translator stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

106. The NPRM proposes the following revised reporting or recordkeeping requirements. To implement the REA, it is proposed that eligible entities file forms to demonstrate their eligibility and estimated costs for reimbursement. Specifically, the NPRM proposes to use revised versions of the financial forms currently being used by full power, Class A, and multichannel video programming distributors (MVPD) entities from the incentive auction for purposes of reimbursing eligible LPTV/translator and FM stations. The NPRM proposes to use the procedures to provide reimbursement payments to these newly eligible entities that are similar to those it used for reimbursement in the incentive auction. For example, the NPRM proposes that LPTV, TV translators, and FM stations be required to submit their Eligibility Certification, cost estimates, and subsequent requests for reimbursement for expenses they have incurred, together with any required supporting documentation, using the Reimbursement Form (FCC Form 2100, Schedule 399), which the Commission plans to revise for this purpose. As required for full power and Class A stations and MVPDs, the NPRM proposes that LPTV/translator and FM stations submit the Reimbursement Form electronically via the Commission's Licensing and Management System (LMS) database. The NPRM proposes to require LPTV/translator and FM stations to use a procedure and form similar to the existing FCC Form 1876 and to file electronically in the CORES Incentive Auction Financial Module.

107. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements proposed in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

108. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into

account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

109. The NPRM proposes rules to implement the REA. The proposed rules are designed allow small entity broadcasters to seek reimbursement in such a manner that is streamlined and the least burdensome. The Commission will consider all comments submitted in connection with the NPRM including any suggested alternative approaches to implementing the REA that would reduce the burden and costs on smaller entities.

110. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission will seek specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

111. None.

H. Paperwork Reduction Act

112. The NPRM contains proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements proposed in the NPRM, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002 (SBPRA), Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

I. Ex Parte Rules

113. Permit But Disclose. The proceeding this NPRM initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

J. Filing Requirements

114. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

115. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

116. Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th St. SW, Room CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

VI. Ordering Clauses

117. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1, 4, 303, and 336(f) of the Communications Act of 1934, as amended, Section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012, and Section 511, Division E, Title V of the Consolidated Appropriations Act, 2018, Public Law 115–141 (2018), 47 U.S.C. 151, 154, 303, 336(f), 1452, the Notice of Proposed Rulemaking *is adopted.*

118. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking and Order, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Multichannel video programming distributors (MVPDs), Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336 and 339.

■ 2. Section 73.3701 is added to read as follows:

§ 73.3701 Reimbursement under the Reimbursement Expansion Act.

(a) Definitions—

(1) *FM station.* For purposes of this section, the term FM station means those stations authorized by 47 CFR 73.310.

(2) *Incentive Auction.* For purposes of this section, the term Incentive Auction means the broadcast television spectrum incentive auction conducted under Section 6403 of the Spectrum Act specifying the new channel assignments and technical parameters of any broadcast television stations that are reassigned to new channels.

(3) *Licensed.* For purposes of this section, the term licensed means a station that was licensed or that filed a license application prior to April 13, 2017.

(4) Low power television station. For purposes of this section, the term low power television station means those stations authorized by 47 CFR 74.701.

(5) *Predetermined cost estimate.* For purposes of this section, predetermined cost estimate means the estimated cost of an eligible expense as generally determined by the Media Bureau in a catalog of expenses eligible for reimbursement.

(6) *Reimbursement Expansion Act or REA.* For purposes of this section, the term Reimbursement Expansion Act or REA means Division E, Financial Services & General Appropriation Act, 2018, Title V Independent Agencies, Public Law 115–141, Section 511 (codified at 47 U.S.C. 1452(j) through (n)) adopted as part of the Consolidated Appropriations Act, 2018, Public Law 115–141 (2018).

(7) *Reimbursement period.* For purposes of this section, reimbursement period means the period ending July 3, 2023 pursuant to sections 510(j)(1)(A) and (B) of the REA.

(8) *Replacement translator station.* For purposes of this section, the term replacement translator station means analog to digital replacement translator stations authorized pursuant to 47 CFR 74.787(a)(5).

(9) *Spectrum Act.* For purposes of this section, the term Spectrum Act means Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

(10) *Special Displacement Window.* For purposes of this section, the term Special Displacement Window means the displacement application filing window conducted April 10, 2018 to June 1, 2018 for low power television, TV translator, and analog-to-digital replacement translator stations that were displaced by the incentive auction and repacking process.

(11) *Transmitting.* For purposes of this section, the term transmitting means operating not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week for 9 of the 12 months prior to April 13, 2017.

(12) *TV Broadcaster Relocation Fund.* For purposes of this section, the TV Broadcaster Relocation Fund means the fund established by the REA.

(13) *TV translator station.* For purposes of this section, the term TV translator station means those stations authorized by 47 CFR 74.701.

(b) Only the following entities are eligible for reimbursement of relocation costs reasonably incurred:

(1) *Low power television stations.* Low power television stations that filed an application for construction permit during the Special Displacement Window and such application was subsequently granted. Station must have been licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017.

(2) *TV translator stations.* TV translator stations that filed an application for construction permit during the Special Displacement Window and such application was subsequently granted. Station must have been licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017.

(3) *Replacement translator stations.* Replacement translator stations that filed an application for construction permit during the Special Displacement Window and such application was subsequently granted. Station must have been licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017.

(4) *FM station.* FM stations that experienced a disruption of service as a result of the reorganization of broadcast television spectrum under 47 U.S.C. 1452(b).

(c) Reimbursement process.

(1) *Estimated costs.*

(i) All entities that are eligible to receive reimbursement will be required to file an estimated cost form providing an estimate of their reasonably incurred costs.

(ii) Each eligible entity that submits an estimated cost form will be required to certify, inter alia, that:

(A) It is eligible for reimbursement;

(B) It believes in good faith that it will reasonably incur all of the estimated costs that it claims are eligible for reimbursement on the estimated cost form;

(C) It will use all money received from the TV Broadcaster Relocation Fund only for expenses it believes in good faith are eligible for reimbursement;

(D) It will comply with all policies and procedures relating to allocations, draw downs, payments, obligations, and expenditures of money from the TV Broadcaster Relocation Fund;

(E) It will maintain detailed records, including receipts, of all costs eligible for reimbursement actually incurred; and

(F) It will file all required documentation of its relocation expenses as instructed by the Media Bureau.

(iii) If an eligible entity seeks reimbursement for new equipment, it must provide a justification as to why it is reasonable under the circumstances to purchase new equipment rather than modify its corresponding current equipment.

(iv) Eligible entities that submit their own cost estimates, as opposed to the predetermined cost estimates provided in the estimated cost form, must submit supporting evidence and certify that the estimate is made in good faith.

(2) *Final Allocation Deadline.*

(i) Upon completing construction or other reimbursable changes, or by a specific deadline prior to the end of the Reimbursement Period to be established by the Media Bureau, whichever is earlier, all eligible entities that received an initial allocation from the TV Broadcaster Relocation Fund must provide the Commission with information and documentation, including invoices and receipts, regarding their actual expenses incurred as of a date to be determined by the Media Bureau (the ''Final Allocation Deadline'').

(ii) If an eligible entity has not yet completed construction or other

reimbursable changes by the Final Allocation Deadline, it must provide the Commission with information and documentation regarding any remaining eligible expenses that it expects to reasonably incur.

(3) *Final accounting.* After completing all construction or reimbursable changes, eligible entities that have received money from the TV Broadcaster Relocation Fund will be required to submit final expense documentation containing a list of estimated expenses and actual expenses as of a date to be determined by the Media Bureau. Entities that have finished construction and have submitted all actual expense documentation by the Final Allocation Deadline will not be required to file at the final accounting stage.

(4) *Documentation requirements.*

(i) Each eligible entity that receives payment from the TV Broadcaster Relocation Fund is required to retain all relevant documents pertaining to construction or other reimbursable changes for a period ending not less than 10 years after the date on which it receives final payment from the TV Broadcaster Relocation Fund.

(ii) Each eligible entity that receives payment from the TV Broadcaster Relocation Fund must make available all relevant documentation upon request from the Commission or its contractor.

[FR Doc. 2018–17844 Filed 8–24–18; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 83, No. 166

Monday, August 27, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0096]

Nuseed Americas Inc.; Determination of Nonregulated Status of Canola Genetically Engineered for Altered Oil Profile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that canola designated as event B0050–027, which has been genetically engineered to accumulate the long chain omega-3 fatty acid known as docosahexaenoic acid in seed, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Nuseed Americas Inc. in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notices announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

DATES: This change in regulatory status will be recognized August 27, 2018.

ADDRESSES: You may read the documents referenced in this notice and the comments we received at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0096* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

Supporting documents are also available on the APHIS website at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition 17–236–01p.

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov*. To obtain copies of the supporting documents for this petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 17–236–01p) from Nuseed Americas Inc. (Nuseed) of Breckenridge, MN, seeking a determination of nonregulated status of canola (*Brassica* spp.) designated as event B0050–027, which has been genetically engineered to accumulate the long chain omega-3 fatty acid known as docosahexaenoic acid (DHA) in seed. The Nuseed petition states that information collected during field trials and laboratory analyses indicates that B0050–027 canola is not likely to be a plant pest and therefore should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on December 11, 2017 (82 FR 58167–58168, Docket No. APHIS–2017–0096), APHIS announced the availability of the Nuseed petition for public comment. APHIS solicited comments on the petition for 60 days ending on February 9, 2018, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received four comments on the petition. Issues raised during the comment period included concerns regarding product stewardship during production and marketing. These concerns were addressed by Nuseed with supplemental product stewardship data provided to APHIS in support of the petition.

APHIS decided, based on its review of the petition and its evaluation and analysis of the comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues. According to our public review process for such petitions (see footnote 1), APHIS is following Approach 2, where we first solicit written comments from the public on a draft environmental assessment (EA) and a draft plant pest risk assessment (PPRA) for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and the draft PPRA and other information, APHIS revises the draft PPRA as necessary and prepares a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) finding document

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129*.

[2] To view the notice, the petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0096*.

(either a finding of no significant impact (FONSI) or a notice of intent to prepare an environmental impact statement). If a FONSI is reached, APHIS furnishes a response to the petitioner, either approving or denying the petition. APHIS also publishes a notice in the **Federal Register** announcing the regulatory status of the GE organism and the availability of APHIS' final EA, PPRA, FONSI, and our regulatory determination.

APHIS sought public comment on a draft EA and a draft PPRA from June 26, 2018, to July 26, 2018.[3] APHIS solicited comments on the draft EA, the draft PPRA, and whether the subject canola is likely to pose a plant pest risk. APHIS received two comments on the petition, both of which supported a decision of nonregulated status for event B0050–027 canola.

National Environmental Policy Act

After reviewing and evaluating the comments received during the comment period on the draft EA and draft PPRA and other information, APHIS has prepared a final EA. The EA has been prepared to provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status of canola designated as event B0050–027. The EA was prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a FONSI with regard to the preferred alternative identified in the EA (to make a determination of nonregulated status of canola designated as event B0050–027).

Determination

Based on APHIS' analysis of field and laboratory data submitted by Nuseed, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that canola designated as event B0050–027 is unlikely to pose a plant pest risk and therefore is no longer subject to our regulations governing the introduction of certain GE organisms.

Copies of the signed determination document, PPRA, final EA, FONSI, and response to comments, as well as the previously published petition and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of August 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–18565 Filed 8–24–18; 8:45 am]

BILLING CODE 3410–34–P

[3] 83 FR 29742–29743.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Adjustment of Appendices Under the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2018 Tariff-Rate Quota Year

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice publishes the document ''Articles Subject to: Appendix 1, Historical Licenses; Appendix 2 Non-historical Licenses; and Appendix 3 and 4, Designated Importers Licenses for Quota Year 2018.'' The quantities in Appendices 1 and 2 have been revised under the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2018 quota year to reflect the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

DATES: August 27, 2018.

ADDRESSES: Abdelsalam El-Farra, Dairy Import Licensing Program, Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW, Washington, DC 20250–1021.

FOR FURTHER INFORMATION CONTACT: Abdelsalam El-Farra, (202) 720–9439, *Abdelsalam.El-Farra@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service, under a delegation of authority from the Under Secretary for Trade and Foreign Agricultural Affairs, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.36 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule (HTS) of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with U.S. Customs and Border Protection, U.S. Department of Homeland Security, monitors their use.

The regulation at 7 CFR 6.34(a) states: ''Whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of 6.23, is permanently surrendered or is revoked by the Licensing Authority, the amount of such license will be transferred to Appendix 2.'' Section 6.34(b) provides that the cumulative annual transfers will be published by notice in the **Federal Register**. Accordingly, this document sets forth the revised Appendices 1 and 2 for the 2018 tariff-rate quota year below.

Issued at Washington, DC, the 6th day of July 2018.

Ronald Lord,

Licensing Authority.

ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2 NON-HISTORICAL LICENSES; AND APPENDIX 3 AND 4, DESIGNATED IMPORTERS LICENSES FOR QUOTA YEAR 2018

[Quantities in kilograms]

Non-cheese articles	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3 Tokyo Round	Appendix 4 Uruguay Round	Grand total
BUTTER (NOTE 6)	4,303,234	2,673,766	6,977,000			6,977,000
EU–27	62,599	33,562	96,161			
New Zealand	76,503	74,090	150,593			
Other Countries	37,155	36,780	73,935			
Any Country	4,126,977	2,529,334	6,656,311			
DRIED SKIM MILK (NOTE 7)	0	5,261,000	5,261,000			5,261,000
Australia	0	600,076	600,076			
Canada	0	219,565	219,565			
Any Country	0	4,441,359	4,441,359			
DRIED WHOLE MILK (NOTE 8)	0	3,321,300	3,321,300			3,321,300
New Zealand	0	3,175	3,175			
Any Country	0	3,318,125	3,318,125			
DRIED BUTTERMILK/WHEY (NOTE 12)	0	224,981	224,981			224,981
Canada	0	161,161	161,161			
New Zealand	0	63,820	63,820			
BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (NOTE 14)	0	6,080,500	6,080,500			6,080,500
Any Country	0	6,080,500	6,080,500			
TOTAL: NON-CHEESE ARTICLES	4,303,234	17,561,547	21,864,781			21,864,781
CHEESE AND SUBSTITUTES FOR CHEESE (NOTE 16)	17,681,563	13,788,168	31,469,731	9,661,128	7,496,000	48,626,859
Argentina	0	7,690	7,690	92,310		100,000
Australia	535,628	5,542	541,170	758,830	1,750,000	3,050,000
Canada	950,162	190,838	1,141,000			1,141,000
Costa Rica	0	0	0		1,550,000	1,550,000
EU–27	13,934,235	9,333,421	23,267,656	1,132,568	3,446,000	27,846,224
Of which Portugal is	65,838	63,471	129,309	223,691		353,000
Israel	79,696	0	79,696	593,304		673,000
Iceland	29,054	264,946	294,000	29,000		323,000
New Zealand	1,351,000	3,464,472	4,815,472	6,506,528		11,322,000
Norway	122,860	27,140	150,000			150,000
Switzerland	512,184	159,228	671,412	548,588	500,000	1,720,000
Uruguay	0	0	0		250,000	250,000
Other Countries	100,906	100,729	201,635			201,635
Any Country	0	300,000	300,000			300,000
BLUE-MOLD CHEESE (NOTE 17)	1,933,126	547,875	2,481,001		430,000	2,911,001
Argentina	2,000	0	2,000			2,000
EU–27	1,931,126	547,874	2,479,000		350,000	2,829,000
Chile	0	0	0		80,000	80,000
Other Countries	0	1	1			1
CHEDDAR CHEESE (NOTE 18)	2,305,671	1,978,185	4,283,856	519,033	7,620,000	12,422,889
Australia	891,246	93,253	984,499	215,501	1,250,000	2,450,000
Chile	0	0	0		220,000	220,000
EU–27	52,404	210,596	263,000		1,050,000	1,313,000
New Zealand	1,265,070	1,531,398	2,796,468	303,532	5,100,000	8,200,000
Other Countries	96,951	42,938	139,889			139,889
Any Country	0	100,000	100,000			100,000
AMERICAN-TYPE CHEESE (NOTE 19)	1,182,569	1,982,984	3,165,553	357,003	0	3,522,556
Australia	761,890	119,108	880,998	119,002		1,000,000
EU–27	136,075	217,925	354,000			354,000
New Zealand	176,865	1,585,134	1,761,999	238,001		2,000,000
Other Countries	107,739	60,817	168,556			168,556
EDAM AND GOUDA CHEESE (NOTE 20)	4,286,917	1,319,485	5,606,402	0	1,210,000	6,816,402
Argentina	105,418	19,582	125,000		110,000	235,000
EU–27	4,065,691	1,223,309	5,289,000		1,100,000	6,389,000
Norway	111,046	55,954	167,000			167,000
Other Countries	4,762	20,640	25,402			25,402
ITALIAN-TYPE CHEESES (NOTE 21)	6,107,184	1,413,363	7,520,547	795,517	5,165,000	13,481,064
Argentina	3,692,345	433,138	4,125,483	367,517	1,890,000	6,383,000
EU–27	2,414,839	967,161	3,382,000		2,025,000	5,407,000
Romania	0	0	0		500,000	500,000
Uruguay	0	0	0	428,000	750,000	1,178,000
Other Countries	0	13,064	13,064			13,064
SWISS OR EMMENTHALER CHEESE (NOTE 22)	4,238,006	2,413,308	6,651,314	823,519	380,000	7,854,833
EU–27	2,983,722	2,168,272	5,151,994	393,006	380,000	5,925,000
Switzerland	1,220,786	198,701	1,419,487	430,513		1,850,000
Other Countries	33,498	46,335	79,833			79,833
CHEESE AND SUBSTITUTES FOR CHEESE (NOTE 23)	1,173,766	3,251,142	4,424,908	1,050,000	0	5,474,908
EU–27	1,173,766	3,251,141	4,424,907			4,424,907
Israel	0	0	0	50,000		50,000
New Zealand	0	0	0	1,000,000		1,000,000
Other Countries	0	1	1			1
SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (NOTE 25)	13,104,939	9,192,392	22,297,331	9,557,945	2,620,000	34,475,276
Argentina	0	9,115	9,115	70,885		80,000
Australia	209,698	0	209,698	290,302		500,000
Canada	0	0	0	70,000		70,000

ARTICLES SUBJECT TO: APPENDIX 1, HISTORICAL LICENSES; APPENDIX 2 NON-HISTORICAL LICENSES; AND APPENDIX 3 AND 4, DESIGNATED IMPORTERS LICENSES FOR QUOTA YEAR 2018—Continued

[Quantities in kilograms]

Non-cheese articles	Appendix 1	Appendix 2	Sum of Appendix 1&2	Appendix 3 Tokyo Round	Appendix 4 Uruguay Round	Grand total
EU–27	9,775,290	6,701,538	16,476,828	4,003,172	2,420,000	22,900,000
Iceland	0	149,999	149,999	150,001	.....	300,000
Israel	27,000	0	27,000	.....	.....	27,000
Norway	2,285,329	1,369,981	3,655,310	3,227,690	.....	6,883,000
Switzerland	759,369	924,736	1,684,105	1,745,895	200,000	3,630,000
Other Countries	48,253	37,023	85,276	.....	.....	85,276
TOTAL: CHEESE ARTICLES	52,013,741	35,886,902	87,900,643	22,764,145	24,921,000	135,585,788
TOTAL: CHEESE & NON-CHEESE	56,316,975	53,448,449	109,765,424	22,764,145	24,921,000	157,450,569

[FR Doc. 2018–18568 Filed 8–24–18; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses for the 2019 Tariff-Rate Import Quota Year

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a fee of $300 to be charged for the 2019 tariff-rate quota (TRQ) year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles, which are subject to tariff-rate quotas set forth in the Harmonized Tariff Schedule (HTS) of the United States.

DATES: August 28, 2018.

ADDRESSES: Abdelsalam El-Farra, Dairy Import Licensing Program, Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW, Washington, DC 20250–1021.

FOR FURTHER INFORMATION CONTACT: Abdelsalam El-Farra, (202) 720–9439, *Abdelsalam.El-Farra@fas.usda.gov*.

SUPPLEMENTARY INFORMATION: The Dairy Tariff-Rate Quota Import Licensing Regulation promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.36 provides for the issuance of licenses to import certain dairy articles that are subject to TRQs set forth in the HTS. Those dairy articles may only be entered into the United States at the in-quota TRQ tariff-rates by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of such licenses is monitored by the Dairy Import Licensing Program, Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, and U.S. Customs and Border Protection, U.S. Department of Homeland Security.

The regulation at 7 CFR 6.33(a) provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to defray the Department of Agriculture's costs of administering the licensing system under this regulation.

The regulation at 7 CFR 6.33(a) also provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be published in the **Federal Register**. Accordingly, this notice sets out the fee for the licenses to be issued for the 2019 calendar year.

Notice: The total cost to the Department of Agriculture of administering the licensing system for 2019 has been estimated to be $749,300.00 and the estimated number of licenses expected to be issued is 2,500. Of the total cost, $479,200.00 represents staff and supervisory costs directly related to administering the licensing system, and $270,100.00 represents other miscellaneous costs, including travel, postage, publications, forms, and Automatic Data Processing (ADP) system support.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 2019 calendar year, in accordance with 7 CFR 6.33, will be $300 per license.

Issued at Washington, DC, the 6th day of July 2018.

Ronald Lord,

Licensing Authority.

[FR Doc. 2018–18567 Filed 8–24–18; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Stakeholder Listening Opportunity for Priorities in Research, Education and Extension

AGENCY: National Institute of Food and Agriculture (NIFA), USDA.

ACTION: Notice of listening sessions and stakeholder feedback opportunities.

SUMMARY: USDA National Institute of Food and Agriculture announces its stakeholder listening initiative ''NIFA Listens: Investing in Science to Transform Lives.'' This stakeholder listening opportunity informs the research, extension and education priorities of NIFA, which has the mission of investing in and advancing agricultural research, education and extension to solve societal challenges. For the purpose of this opportunity, *Agriculture* is defined broadly and includes research, extension, and education in food, fiber, forestry, range, nutritional and social sciences, including food safety and positive youth development. NIFA's investments in transformative science directly support the long-term prosperity and global pre-eminence of U.S. agriculture. This listening opportunity allows stakeholders to provide feedback on the following questions: ''When considering all of agriculture, what is the greatest challenge that should be addressed through NIFA's research, education, and extension?'', ''In your field, what is the most-needed breakthrough in science/technology that would advance your agricultural enterprise?'' and, ''What is your top priority in food and agricultural research, extension, or education that NIFA should address?''

This effort to obtain input regarding the challenges, needed breakthroughs, and priorities will be carried out through online and in-person

submission mechanisms. Stakeholder input received from the two mechanisms is treated equally. The challenges, needed breakthroughs, and priorities identified by this effort will be evaluated in conjunction with input from NIFA staff. This information will be critical for NIFA's evaluation of existing science emphasis areas and to identify investment opportunities and gaps in the current portfolio of programs. The information obtained through this iterative analysis and synthesis will help to ensure the strategic positioning and relevancy of NIFA's investments in advancing agricultural research, education and extension.

DATES:

(A) *Online Input:* Submission of online stakeholder input to the target questions will be open upon publishing of this Notice through 5 p.m. Eastern time November 30, 2018.

(B) *In-person Listening Sessions:* Four listening sessions, each a full day, will be organized throughout the United States to obtain input from all stakeholders, including small institutions, local business and other stakeholder groups. The listening sessions will take place on October 11, 2018, October 18, 2018, October 25, 2018, and November 1, 2018. Each session will begin at 8:30 a.m. and is scheduled to end no later than 5:00 p.m. Each session will include a presentation of the goals and background information on NIFA programs, followed by comments from stakeholders. Each registered speaker will receive 5 minutes to share their comments with the Agency. If time allows after all comments from registered speakers are made, unscheduled speakers will be allowed 5 minutes to present their comments to the Agency. The length of the sessions will be adjusted according to numbers of participants seeking to provide input. All parties interested in attending an in-person listening session must RSVP no later than one week prior to the scheduled session. These sessions will be webcast and transcribed. Information about registering for the in-person session, providing written comments and viewing the webcast can be found at *https://nifa.usda.gov/nifalistens*.

Registration: The website, *https://nifa.usda.gov/nifalistens,* includes instructions on submitting written comments and registering to attend or speak at the in-person listening sessions. All parties interested in attending an in-person listening session must RSVP no later than one week prior to the scheduled session. The number of attendees and oral commenters is limited due to time and space constraints (see below). Oral commenter slots will be allotted on a first-come, first-served basis. All interested stakeholders, regardless of attendance, are welcome to submit written comments.

Comments: Written comments are due by 5 p.m. Eastern time November 30, 2018. Written comments must be submitted electronically through *https://nifa.usda.gov/nifalistens* or emailed to *NIFAlistens@nifa.usda.gov*.

ADDRESSES: The in-person listening sessions will take place at conference facilities in Hartford, CT (October 11, 2018), New Orleans, LA (October 18, 2018), Minneapolis, MN (October 25, 2018), and Albuquerque, NM (November 1, 2018).

All parties interested in attending an in-person listening session must RSVP no later than one week prior to the scheduled session they wish to attend.

FOR FURTHER INFORMATION CONTACT: Megan Haidet, Program Specialist, NIFA, at 202–401–6617, email *NIFAlistens@nifa.usda.gov,* or visit *https://nifa.usda.gov/nifalistens* for detailed information about providing written comments, joining the in-person sessions remotely, or registering to speak at an in-person session.

SUPPLEMENTARY INFORMATION: The science priority-setting process at NIFA involves soliciting stakeholder input on agricultural research, education and extension needs, obtaining input from NIFA's science staff who are informed through interactions with scientific communities, and evaluating existing programs to identify critical gaps in the current portfolio of programs in order to address challenges in U.S. agriculture.

This listening effort will focus on answers to the following questions, ''When considering all of agriculture, what is the greatest challenge that should be addressed through NIFA's research, education, and extension?'', ''In your field, what is the most-needed breakthrough in science/technology that would advance your agricultural enterprise?'', and ''What is your top priority in food and agricultural research, extension, or education that NIFA should address?''

NIFA welcomes stakeholder input from any group or individual interested in agricultural research, extension or education priorities for NIFA. NIFA is eager to listen to stakeholder's comments on the challenges, needed breakthroughs, and priorities, solutions and opportunities that will facilitate long-term sustainable agricultural production, research, education and extension. *Agriculture* in this context is defined broadly and includes research, extension, and education in food, fiber, forestry, range, nutritional and social sciences, including food safety and positive youth development. This listening effort will focus on the agricultural science that NIFA invests in, but not on NIFA processes or procedures.

All parties interested in attending an in-person listening session must RSVP no later than one week prior to the scheduled session they will attend. Abstracts from in-person speakers can be submitted upon registration via *https://nifa.usda.gov/nifalistens*.

Written comments by all interested stakeholders are welcomed through 5 p.m. Eastern time, November 30, 2018. All input will become a part of the official record and available on the NIFA website, *https://nifa.usda.gov/nifalistens*.

Done at Washington, DC, this day of August 1, 2018.

Thomas Shanower,

Acting Director, National Institute of Food and Agriculture.

[FR Doc. 2018–18535 Filed 8–24–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Boundary and Annexation Survey & Boundary Validation Program.

OMB Control Number: 0607–0151.

Form Number(s): BAS 1, BAS 2, BAS 3, BAS 5, BAS 6, BAS ARF, BASSC, BVP 1, BVP 2.

Type of Request: Regular Submission.

Number of Respondents: 132,465.

Average Hours per Response: Varies.

Stage of review or response	Estimated time per response (hours)
Annual Response Notification	0.5
No Change Response	4
Telephone Follow-up	0.5
Packages with Changes	8
State Certification Review	10
State Certification Local Review	2
Boundary Quality Assessment Reconciliation Project	25

Stage of review or response	Estimated time per response (hours)
Boundary Validation Program	2

Respondent Burden Hour: 265,590 [1]

Needs and Uses: The Boundary and Annexation Survey (BAS) is one of the seven voluntary geographic partnership programs that collect boundaries, addresses, and streets to update the U.S. Census Bureau's Master Address File/Topologically Integrated Geographic Encoding and Referencing database (MAF/TIGER). The Census Bureau uses its geographic database to link demographic data from surveys and the decennial census to locations and areas, such as cities, school districts, and counties. In order to tabulate statistics by localities, the Census Bureau must have accurate addresses and boundaries. The boundaries collected during the BAS and other geographic programs become bounding features for census blocks, which are the building blocks for all Census Bureau geographic boundaries. While the Census Bureau's geographic programs differ in requirements, time frame, and participants, the BAS and other geographic programs all follow the same basic process:

1. The Census Bureau invites eligible participants to the program. For the BAS, the Census Bureau invites legal governments.
2. If they elect to participate in the program, participants receive a copy of the boundaries or addresses that the Census Bureau has on file. BAS participants can choose to review and update their boundaries using Geographic Update Partnership Software—which is a free customized mapping software—paper maps, or their own mapping software.
3. Participants return their updates to the Census Bureau.
4. The Census Bureau processes and verifies all submissions for accuracy, and updates its geographic database with boundary or address updates submitted by the participants.
5. The Census Bureau uses the newly updated boundaries and addresses to tabulate statistics. The Census Bureau uses its geographic database to link demographic data from surveys and the decennial census to locations and areas, such as cities, congressional and legislative districts, and counties. To tabulate statistics by localities, the Census Bureau must have accurate addresses and boundaries.

The BAS annually updates incorporated place boundaries, minor civil divisions, counties, and the federally recognized American Indian areas inventory for compliance with responsibilities specified in the OMB Circular A–16, Governmental Units and Administrative and Statistical Boundaries Data Theme. BAS supports the spatial data steward responsibilities of the OMB E-Gov, Data.gov, The National Map, and updates to the Geographic Names Information Systems. The results of the BAS are needed to provide information documenting the creation of newly incorporated places, minor civil divisions, counties, federally recognized American Indian Areas (including American Indian reservations, and off-reservation trust lands). BAS also includes the dissolution of incorporated places and minor civil divisions, and changes in the boundaries of incorporated places, minor civil divisions, counties, and American Indian Areas. Alaska Native Regional Corporations will be updated in the 2020 Census Participant Statistical Areas Program rather than BAS. BAS information provides an appropriate record for reporting the results of the decennial census, economic census, the Population Estimates Program, and surveys such as the American Community Survey. In the year 2020, all legal documentation for inclusion in the 2020 Census must be effective January 1, 2020. All legal boundary changes will be placed on hold and updated during the 2021 BAS if effective January 2, 2020 or later.

The BAS universe and mailing materials vary depending both upon the needs of the Census Bureau in fulfilling its censuses and household surveys and upon budget constraints. Counties or equivalent entities, federally recognized American Indian reservations, off-reservation trust lands, and tribal subdivisions are included in every BAS.

There are projects to support the BAS among various levels of governments and obtain the most accurate boundary information. These are the:

- Boundary Quality Assessment and Reconciliation Project.
- Boundary Validation Program.
- State Certification Program.

The Boundary Quality and Reconciliation Project (BQARP) supports the BAS program, improves boundary quality in the Census Bureau's MAF/TIGER database and lessens the burden on BAS participants. BQARP works with state level cadastral or geographic information system coordinators to update state, county and incorporated place boundaries. The BAS would then continue the collection of annexations and de-annexations on a transaction basis as they occur over time. Ensuring quality and spatially accurate boundaries is a critical component of the geographic preparations for the 2020 Census and the Census Bureau's ongoing geographic partnership programs and surveys. In addition, the improvement of boundary quality is an essential element of the Census Bureau's commitment as the responsible agency for legal boundaries under the OMB Circular A–16.

The Census Bureau will conduct the 2020 Boundary Validation Program (BVP) in conjunction with the 2020 BAS. The BVP is a part of BAS conducted in preparation for the decennial census. The Census Bureau conducts the BVP every ten years to provide the highest elected or appointed officials of tribal and local governments an opportunity to review the boundary data collected during the BAS over the last decade. The 2020 BVP will cover:

- All actively functioning counties or statistically equivalent entities.
- Incorporated places (including consolidated cities).
- All actively functioning minor civil divisions.
- All federally recognized American Indian reservations and off-reservation trust land entities in the United States.
- Municipios, barrios, barrio-pueblos and subbarrios in Puerto Rico.

In addition, the Census Bureau will send a letter to the governor of each state explaining the 2020 BVP process and advising them the Census Bureau will review the state boundaries in conjunction with relevant county boundaries as part of the BVP.

The Census Bureau will conduct the 2020 BVP in two phases, initial and final. During the initial BVP phase, every highest elected official in the BAS universe will receive a BVP form, a letter with instructions, and paper maps or a CD/DVD containing a complete set of 2020 BAS maps in PDF format for their governmental unit with the option to request other formats. The Census Bureau asks the highest elected official to review their boundaries and return the BVP form within ten days of receipt. If the highest elected official determines that there are no changes to report, the highest elected official will sign and return the validated BVP form. If the highest elected official determines that their entity requires boundary changes, the Census Bureau requests the highest elected official to work with their BAS contact to submit boundary changes through the 2020 BAS process. If either the highest elected official or the BAS

[1] The respondent burden hour was incorrectly estimated at 270,710 hours in the previously published 60-Day presubmission notice. This mistake is corrected in the 30-Day FRN.

contact submits 2020 BAS boundary updates, effective as of January 1, 2020, or before, by the deadline of March 1, 2020, the entity will be included in the final phase of the BVP. The government will have the option to submit the corrections on either paper or digital maps.

In the final BVP phase, once the Census Bureau applies the participant's 2020 BAS boundary updates to the MAF/TIGER database, the Census Bureau will provide each highest elected official a complete set of updated 2020 BAS maps or shapefiles. The governments may request CD/DVD, download or plotted paper maps. This is their final opportunity to review the boundary and verify that the Census Bureau clearly reflects the correct boundary in the MAF/TIGER database, effective January 1, 2020, for the 2020 Census. In the final BVP phase, each highest elected official submits any remaining corrections within five days directly to the Census Bureau using the instructions provided in the BAS respondent guide.

The final stage of BAS is the annual State Certification Program. This program allows state level agencies to verify that the status and boundary updates received through the previous years' BAS updates were accomplished according to state law. The State Certification Program will be held in 2018 and 2019. The BVP replaces the State Certification in 2020. During each cycle of this program, Governor-designated state certifying officials review listings of incorporated place legal boundary and functional status changes reported to the BAS during the previous year. The extent of the State Certification program varies depending on the laws governing annexations, deannexations, incorporations, and disincorporations in the given state. Some states have strong laws that require local governments to report legal boundary changes to the state government. In these states, the state certifying official is able to certify, edit, add, or reverse reported annexations, and may mark a legal boundary change as a duplicate of a previously reported change. In these states, the state certifying official also has the authority to request that the Census Bureau edit or delete information received from the local government. In states that do not require local governments to report legal boundary changes to the state, the Census Bureau will not edit or delete information without confirmation from the local government. If the state certifying official adds legal boundary changes missing from the Census Bureau's annexation list, the Census Bureau will contact the local government to request information. The State Certification program helps to ensure that all levels of government represent boundaries consistently and accurately.

The data and information collected from the BAS and BVP serve tribal, federal, state and local governments, and the private sector. The BVP provides validation for the information collected through the BAS. The BAS is the primary provider for the following services and products:

(1) Classify data collected in the periodic decennial and economic censuses and annual surveys.

(2) Serve as the primary source of information regarding new incorporations, disincorporations, and other changes in the local and tribal government inventory for the Federal Information Processing Series and Geographic Names Information Systems programs, tribal, state and local officials, and private data users.

(3) Update its estimates of the population as a result of the creation of new governments, the dissolution of governments, or changes in boundaries for existing local or tribal governments.

(4) Serve as the source for governmental unit boundary information as a framework layer of the National Spatial Data Infrastructure for The National Map and the data.gov website.

Information quality is an integral part of the pre-dissemination review of the information disseminated by the Census Bureau. Information quality is also integral to the information collections conducted by the Census Bureau, and we incorporate it into the clearance process as required by the Paperwork Reduction Act of 1995.

Affected Public: Tribal, state and local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 6.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202)395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–18443 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–803]

Large Diameter Welded Pipe From Greece: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from Greece is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, 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) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation; the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from Greece,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Greece. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Constructed export price is calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an estimated weighted-average dumping margin for Corinth Pipeworks Pipe Industry S.A. (Corinth),[7] the only individually-examined exporter/producer in this investigation. Because the only individually-calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Corinth is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Corinth Pipeworks Pipe Industry S.A	22.51
All-Others	22.51

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for Corinth will be equal to the company-specific estimated weighted-average dumping margin as determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is Corinth, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin as established for Corinth; and (3) the cash deposit rate for all other producers and exporters will be 22.51 percent, as discussed in the ''All-Others Rate'' section, above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis to interested parties in this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent LTFV and countervailing duty investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated June 19, 2018 (Preliminary Scope Decision Memorandum).

[7] In the *Initiation Notice,* this company appears under the name Corinth Pipeworks S.A. However, the company's correct name is Corinth Pipeworks Pipe Industry S.A.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On July 19, 2018, pursuant to 19 CFR 351.210(e), Corinth requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Discussion of the Methodology
  A. Determination of the Comparison Method
  B. Results of the Differential Pricing Analysis
VI. Date of Sale
VII. Product Comparisons
VIII. Constructed Export Price
IX. Normal Value
  A. Home Market Viability
  B. Level of Trade
  C. Cost of Production Analysis
  1. Calculation of Cost of Production (COP)
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  D. Calculation of NV Based on Comparison Market Prices
X. Currency Conversion
XI. Conclusion

[FR Doc. 2018–18487 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See* Corinth Pipeworks S.A.'s Letter re: Antidumping Investigation of Large Diameter Welded Pipe from Greece—Request for Postponement of Final Determination and Provisional Measures Period, dated July 19, 2018.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–820]

Fresh Tomatoes From Mexico: Preliminary Results of the Five-Year Sunset Review of the 2013 Suspension Agreement on Fresh Tomatoes From Mexico

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 1, 2018, the Department of Commerce (Commerce) initiated the fourth sunset review of the suspended antidumping duty investigation on fresh tomatoes from Mexico. Commerce preliminarily finds that termination of the suspended antidumping duty investigation on fresh tomatoes from Mexico would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Preliminary Results of Review'' section of this notice.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: David Cordell or Sally C. Gannon, Bilateral Agreements Unit, Office of

Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–0408 or 202–482–0162, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 2013, the Department of Commerce (the Department) published a notice of suspension of the antidumping duty investigation on fresh tomatoes from Mexico. The basis for the suspension of the investigation was an agreement between Commerce and producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico wherein each signatory producer/exporter agreed to revise its prices to eliminate completely the injurious effects of exports of this merchandise to the United States (2013 Suspension Agreement on Fresh Tomatoes from Mexico (Suspension Agreement)).[1]

On February 1, 2018, Commerce initiated the sunset review of the suspended antidumping duty investigation on fresh tomatoes from Mexico in accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] Commerce received a notice of intent to participate in this sunset review from the Florida Tomato Exchange (FTE) on February 15, 2018, within the applicable deadline specified in 19 CFR 351.218(d)(1)(i). The FTE claimed interested-party status under section 771(9)(E) of the Act as a trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States.

On March 1, 2018, Commerce received a request from NatureSweet Ltd. and its affiliates (collectively, NatureSweet) for a one-week extension to the deadline prescribed in 19 CFR 351.218(d)(3) for submitting its substantive response. On March 5, 2018, Commerce granted NatureSweet's extension request, in accordance with 19 CFR 351.302(b), and extended the deadline for substantives responses from all interested parties to March 12, 2018. On March 12, 2018, Commerce received complete substantive responses from NatureSweet, the FTE, and Confederación de Asociaciones Agricolas del Estado de Sinaloa, A.C., Consejo Agricola de Baja California, A.C., Asociación Mexicana de Horticultura Protegida, A.C., Asociación de Productores de Hortalizas del Yaqui y Mayo, and Sistema Producto Tomate (collectively, CAADES *et al.* or the Mexican growers).[3] Both NatureSweet and CAADES *et al.* claimed interested-party status under section 771(9)(A) of the Act as a foreign manufacturer, producer, or exporter, or the United States importer, of subject merchandise or a trade or business association a majority of the members of which are producers, exporters, or importers of such merchandise. On April 2, 2018, Commerce received rebuttal comments from the FTE and the Mexican growers within the deadline specified in 19 CFR 351.218(d)(4).[4]

On April 13, 2018, Commerce determined in accordance with 19 CFR 351.218(e)(1)(ii) that NatureSweet's and the Mexican signatories' substantive responses met the requirements of 19 CFR 351.218(d)(3) and thus constituted adequate responses to the notice of initiation. Further, we found in accordance with 19 CRF 351.218(e)(1)(i) that the domestic interested parties submitted an adequate response to the notice of initiation. As a result, pursuant to section 751(c)(5)(A) of the Act and 19 CFR 351.218(e)(2)(i), Commerce began conducting a full sunset review of the suspended investigation on fresh tomatoes from Mexico and notified the ITC of its intent to conduct a full sunset review.[5]

Scope of the Suspension Agreement

The merchandise subject to the suspension agreement is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this suspension agreement, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.,* tomatoes used in the preparation of fresh salsa or salad bars), are covered by this suspension agreement.

Commercially grown tomatoes, both for the fresh market and for processing, are classified as Lycopersicon esculentum. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this Suspension Agreement.

Tomatoes imported from Mexico covered by this suspension agreement are classified under the following subheading of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Analysis of Comments Received

All issues raised for the preliminary results of this sunset review are addressed in the Preliminary Decision Memorandum.[6] The Preliminary Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Pursuant to section 752(c) of the Act, we determine that termination of the suspended investigation on fresh tomatoes from Mexico would be likely to lead to continuation or recurrence of dumping at weighted-average margins up to 188.14 percent.

Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of this full sunset review, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). If a request for

[1] *See Fresh Tomatoes from Mexico: Suspension of Antidumping Investigation,* 78 FR 14967 (March 8, 2013).

[2] *See Initiation of Five-Year (Sunset) Review,* 83 FR 4641 (February 1, 2018) (*Initiation*).

[3] *See* Letters from NatureSweet, FTE, and Mexican growers, dated March 12, 2018.

[4] *See* Letters from the FTE and the Mexican Growers dated April 2, 2018.

[5] *See* Letter from James C. Doyle to Michael Anderson entitled ''Sunset Reviews Initiated on February 1, 2018'' (April 13, 2018).

[6] *See* Memorandum from Sally C. Gannon to Gary Taverman, entitled ''Preliminary Decision Memorandum for the Fourth Sunset Review of the 2013 Suspension Agreement on Fresh Tomatoes from Mexico'' (Preliminary Decision Memorandum), dated concurrently with, and hereby adopted by this notice.

a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a date and time to be determined. Commerce will issue a notice of final results of this full sunset review, which will include the results of its analysis of issues raised in any such comments, no later than October 1, 2018.

This five-year (sunset) review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218(f)(1).

Dated: August 21, 2018.

Gary Taverman

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–18436 Filed 8–24–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–077]

Large Diameter Welded Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Trenton Duncan or Ryan Mullen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3539 or (202) 482–5260, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation; the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have preliminarily relied upon facts otherwise available, with adverse inferences (AFA), for the China-wide entity. As AFA, we have assigned the highest margin alleged in the Petition of 132.63 percent.[7] For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[8] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[9] In this case, because no respondent qualified for a separate rate, producer/exporter combination rates were not calculated.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists:

Exporter	Estimated weighted-average dumping margin (percent)
China-wide Entity	132.63

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct CBP to suspend liquidation of subject

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in Less-Than-Fair-Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations'' (Preliminary Scope Decision Memorandum), dated June 19, 2018.

[7] *See* Petitioners' Letter, ''Response to the Department's January 23, 2018 Supplemental Questions Regarding Volume VIII of the Petition for the Imposition of Antidumping and Countervailing Duties,'' dated January 25, 2018,'' at Exhibit AD–CN–Supp–3.

[8] *See Initiation Notice* at 7160.

[9] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the China producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. However, in this investigation, we made no adjustments to the China-wide entity's antidumping cash deposit rate of 132.63 percent because Commerce made no findings in the companion CVD investigation that any of the subsidies in question are export subsidies.[10] Further, pursuant to section 777A(f) of the Act, we normally adjust cash deposit rates for estimated domestic subsidy pass-through, where appropriate. However, in this case there is no basis to grant a domestic subsidy pass-through adjustment.[11] Thus, Commerce has not made an adjustment to the antidumping duty cash deposit rates under section 777A(f) of the Act. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the China-wide entity in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Verification

Because none of the mandatory respondents in this investigation responded to our requests for information, verification will not be conducted.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent AD and CVD investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing

[10] *See* Preliminary Decision Memorandum.

[11] *Id.*

[12] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Discussion of the Methodology
  A. Non-Market Economy Country
  B. China-Wide Entity
  C. Application of Facts Available and Adverse Inferences
  1. Application of Facts Available
  2. Application of Facts Available With an Adverse Inference
  3. Selection and Corroboration of the AFA Rate
VI. Adjustment Under Section 777A(f) of the Act
VII. Adjustments to Cash Deposit Rates for Export Subsidies
VIII. Conclusion

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–833]

Large Diameter Welded Pipe From the Republic of Turkey: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from the Republic of Turkey (Turkey) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz or William Miller, 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) 482–2972 or (202) 482–3906, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from the Republic of Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated June 19, 2018 (Preliminary Scope Decision Memorandum).

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) and HDM Celik Boru Sanayi ve Ticaret A.S. (HDM Celik) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S	5.29	[8] 4.63
HDM Celik Boru Sanayi ve Ticaret A.S [9]	3.45	[10] 2.45
All-Others	4.83	4.07

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, adjusted for export subsidies, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins, adjusted for export subsidies, determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin, adjusted for export subsidies, established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin, adjusted for export subsidies.

Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies,[11] Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted rates may be found in the Preliminary Determination section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis to interested parties in this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[12]

[7] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please see the All-Others' Rate Calculation Memorandum.

[8] *See* Memorandum, ''Preliminary Determination Calculations for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan),'' dated concurrently with this notice.

[9] On October 31, 2017, HDM Celik acquired HDM Spiral Kaynakli Celik Boru A.S. (HDM Spiral) and HDM Spiral ceased to exist. *See* HDM Celik's May 7, 2018 Supplemental Section A Questionnaire Response, at Exhibit SA–4. Further, on July 6, 2018, Commerce determined to collapse HDM Celik and HDM Spiral as treat them as a single entity. *See* Memorandum, ''Less-Than-Fair Value Investigation of Large Diameter Welded Pipe (Welded Pipe) from the Republic of Turkey (Turkey): Preliminary Affiliation and Collapsing of HDM Spiral Kaynakli Celik Boru A.S. and HDM Celik Boru Sanayi ve Ticaret A.S.,'' dated July 6, 2018.

[10] *See* Memorandum, ''Preliminary Determination Calculations for HDM Celik Boru Sanayi ve Ticaret AS,'' dated concurrently with this notice.

[11] *See* Preliminary Decision Memorandum.

[12] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent LTFV and CVD investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On July 25 and 29, 2018, pursuant to 19 CFR 351.210(e), Borusan and HDM Celik requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Turkey. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056 (December 1, 2015).

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Discussion of the Methodology
  A. Determination of the Comparison Method
  B. Results of the Differential Pricing Analysis
VI. Date of Sale
VII. Product Comparisons
VIII. Export Price
IX. Normal Value
  A. Particular Market Situation
  B. Home Market Viability
  C. Level of Trade
  D. Cost of Production (COP) Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  E. Calculation of NV Based on Comparison Market Prices

[13] *See* Borusan's Letter re: Large Diameter Welded Pipe from Turkey. Case No. A–489–833: Request to Postpone Final Determination, dated July 25, 2018; and HDM's Letter re: Large Diameter Welded Pipe from Turkey: HDM Celik Extension Request for the Postponement of the Final Determination, dated July 29, 2018.

X. Currency Conversion
XI. Adjustments to Cash Deposit Rates for Export Subsidies
XII. Conclusion

[FR Doc. 2018–18490 Filed 8–24–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–863]

Large Diameter Welded Pipe From Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from Canada is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Susan S. Pulongbarit or Annathea Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4031or (202) 482–0250, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation; the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by Commerce. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Evraz Inc. NA (Evraz),[7] the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Evraz is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Evraz Inc. NA[8]	24.38
All-Others	24.38

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S.

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from Canada'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated June 19, 2018 (Preliminary Scope Decision Memorandum).

[7] While Commerce listed the name Evraz Inc. in its respondent selection memo based on U.S. Customs Border and Border Protection data, following the receipt of responses from Evraz, we note that Evraz's formal name is Evraz Inc. NA. *See* Memorandum, ''Less-Than-Fair-Value Invstigation of Large Diameter Welded Pipe from Canada: Respondent Selection,'' dated March 23, 2018.

[8] Commerce preliminarily determines that Evraz Inc. NA, Evraz Inc. NA Canada, and the Canadian National Steel Corporation are a single entity. *See* Preliminary Decision Memorandum at ''Affiliation and Collapsing.''

Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for Evraz Inc. NA will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is Evraz Inc. NA, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for Evraz Inc. NA; and (3) the cash deposit rate for all other producers or exporters will be 24.38 percent, as discussed in the ''All-Others Rate'' section, above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent LTFV and countervailing duty investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures for a four-month period to a period not more than six months in duration.

On July 18, 2018, and August 8, 2018, pursuant to 19 CFR 351.210(e), Evraz requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures for a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the publication date of the preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[10] *See* Letter from the petitioners, ''Large Diamater Welded Pipe from Canada: Petitioners' Request for Postponement of the Final Determination,'' dated July 18, 2018; Letter from Evraz, ''Large Diameter Welded Pipe from Canada: Request for Postponement of Final Determinatio,'' dated August 8, 2018.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Affiliation and Collapsing
  A. Affiliation
  B. Collapsing
VI. Discussion of the Methodology
  A. Determination of the Comparison Method
  B. Results of the Differential Pricing Analysis
VII. Date of Sale
VIII. Product Comparisons
IX. Export Price
X. Normal Value
  A. Home Market Viability
  B. Level of Trade
  C. Cost of Production (COP) Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  D. Calculation of NV Based on Comparison Market Prices
  E. Calculation of NV Based on Constructed Value
XI. Currency Conversion

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–897]

Large Diameter Welded Pipe From the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, or Jesus Saenz, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6478 or (202) 482–8184, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Korea. For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from the Republic of Korea'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice*.

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated June 19, 2018 (Preliminary Scope Decision Memorandum).

upon facts otherwise available, with adverse inferences, for Samkang M&T Co., Ltd (SKMT) for its failure to cooperate in this investigation. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. In this investigation, Commerce calculated estimated weighted-average dumping margins for SeAH Steel Corporation (SeAH) and Hyundai RB Co., Ltd. (Hyundai RB) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate as the weighted-average of these margins, using the respondents' publicly-ranged sales data.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Hyundai RB Co., Ltd	14.97
SeAH Steel Corporation	22.21
Samkang M&T Co., Ltd	22.21
All-Others	20.13

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, in cases where Commerce preliminarily makes an affirmative determination for countervailable export subsidies, Commerce offsets the estimated weighted-average dumping margin by the appropriate CVD rate. However, we made no adjustment to the weighted-average dumping margin for cash deposit purposes in this case because we found no measurable export subsidies in the companion CVD proceeding.

Disclosure

Commerce intends to disclose its calculations and analysis to interested parties in this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent LTFV and CVD investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

[7] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As a result of this comparison, Commerce based the all-others rate on the weighted-average of the preliminary dumping margins calculated for the examined respondents using the publicly-ranged sales data. For a complete analysis of the data, *see* the All-Others' Rate Calculation Memorandum, dated August 20, 2018.

[8] *See* 19 CFR 351.309(d)(1) and (2); *see also* 19 CFR 351.303 (for general filing requirements).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination. The final determination may be postponed if, in the event of an affirmative preliminary determination, exporters, who account for a significant proportion of exports of subject merchandise, request a postponement, or, in the event of a negative preliminary determination, petitioners request a postponement. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 1 and 3, 2015, pursuant to 19 CFR 351.210(e), Hyundai RB and SeAH, respectively, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

[9] *See* Hyundai RB's Letter, ''Large Diameter Welded Pipe from the Republic of Korea: Request to Extend the Deadline for the Final Determination,'' dated August 1, 2018; and SeAH's Letter, ''Antidumping Duty Investigation of Large Diameter Welded Pipe from Korea—Request for Extension of Final Determination,'' dated August 3, 2018.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Korea. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056 (December 1, 2015). Also excluded from the scope are any products covered by the existing antidumping order on welded ASTM A–312 stainless steel pipe from Korea. *See Welded ASTM A–312 Stainless Steel Pipe from South Korea: Antidumping Duty Order,* 57 FR 62300 (December 30, 1992).

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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V. Application of Facts Available and Use of Adverse Inferences
A. Application of Facts Available
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VI. Discussion of the Methodology
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[FR Doc. 2018–18486 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–881]

Large Diameter Welded Pipe From India: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded

pipe) from India is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Jaron Moore or Kate Johnson, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On June 8, 2018, Commerce postponed the preliminary determination of this investigation; the revised deadline is now August 20, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, we preliminarily have relied upon facts otherwise available, with adverse inferences (adverse facts available or AFA), for Bhushan Steel (Bhushan) and Welspun Trading Limited (Welspun), the respondents selected for individual examination, for their failure to cooperate in this investigation. As AFA, we have preliminarily assigned the only margin alleged in the Petition of 50.55 percent.[7] For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In cases where no weighted-average dumping margins other than zero, *de minimis,* or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce may use ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.'' Our recent practice in these circumstances is to average the dumping margins alleged in the petition and apply the result to ''all-other'' entities not individually examined. In this investigation, Commerce has preliminarily determined the estimated weighted-average dumping margin for Bhushan and Welspun entirely under section 776 of the Act. Therefore, as the ''all-others'' rate, we are assigning the sole margin in the Petition, which is 50.55 percent. For a full description of the methodology underlying Commerce's analysis, see the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

[1] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 7154 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations,* 83 FR 27953 (June 15, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from India'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated June 19, 2018 (Preliminary Scope Decision Memorandum).

[7] *See* Petitioners' Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey,'' dated January 17, 2018 (the Petition), Volume IV, at 18.

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for export subsidies offset) (percent)
Bhushan Steel	50.55	16.85
Welspun Trading Limited	50.55	16.85
All-Others	50.55	16.85

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin, or the estimated all-others rate, adjusted for export subsidies, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins, adjusted for export subsidies, as determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin, adjusted for export subsidies, as established for that producer of the subject merchandise and (3) the cash deposit rate for all other producers or exporters will be equal to the all-others estimated weighted-average dumping margin, adjusted for export subsidies.

Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies,[8] Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted rates may be found in the Preliminary Determination section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping cash deposits unadjusted for countervailed export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the mandatory respondents Bhushan and Welspun in this investigation, and the applied AFA rate is based solely on the Petition, in accordance with section 776 of the Act, there are no calculations to disclose.

Verification

Because none of the mandatory respondents in this investigation responded to our requests for information, verification will not be conducted.

Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs on any issues raised in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, case briefs regarding scope issues may be submitted within 10 days after the date of publication of this notice in the **Federal Register**. Rebuttal briefs regarding scope issues, limited to those issues in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent LTFV and CVD investigations of welded pipe.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final

[8] *See* the Preliminary Decision Memorandum for further discussion.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Application of Facts Available and Use of Adverse Inference
  A. Application of Facts Available
  B. Application of Facts Available With an Adverse Inference
  C. Preliminary Estimated Weighted-Average Dumping Margin Based on Adverse Facts Available
  D. Corroboration of Secondary Information
VI. All-Others Rate
VII. Adjustments to Cash Deposit Rates for Export Subsidies
VIII. Conclusion

[FR Doc. 2018–18485 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Manufacturing Extension Partnership Management Information Reporting.

OMB Control Number: 0693–0032.

Form Number(s): None.

Type of Request: Revision and extension of an approved information collection.

Number of Respondents: 51.

Average Hours per Response: 20 Hours for Quarterly Review, 4 Hours for Semi-Annual Review, 30 hours for the Annual Review; 80 hours for Panel Review.

Burden Hours: 5,508 hours for quarterly, semi-annual and annual Review; and 1,360 hours for Panel Review.

Needs and Uses: NIST MEP offers technical and business solutions to small- and medium-sized manufacturers to improve their productivity, improve profitability, and enhance their economic competitiveness. This is a major program which links all 50 states and Puerto Rico and the manufacturers through more than 400 affiliated MEP Centers and Field Offices. NIST MEP has many legislative and contractual requirements for collecting data and information from the MEP Centers. This information is used for the following purposes: (1) Program Accountability, (2) Reports to Stakeholders, (3) Continuous Improvement; and (4) Identification of Distinctive Practices.

Affected Public: Business or other for-profit organizations.

Frequency: Quarterly, Semi-Annual, and Annual Reporting.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–18513 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing Request for Nominations for Lightweight Cryptographic Algorithms

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: This notice solicits nominations from any interested party for candidate algorithms to be considered for lightweight cryptographic standards. The submission requirements and the minimum acceptability requirements of a ''complete and proper'' candidate algorithm submission, as well as the evaluation criteria that will be used to appraise the candidate algorithms, can be found on the NIST Computer Security Resource Center website at: *https://csrc.nist.gov/Projects/Lightweight-Cryptography*.

DATES: Proposals must be received on or before February 25, 2019. Further details are available at *https://csrc.nist.gov/Projects/Lightweight-Cryptography*.

ADDRESSES: Algorithm submission packages should be sent to Dr. Kerry

McKay, Information Technology Laboratory, Attention: Lightweight Cryptographic Algorithm Submissions, 100 Bureau Drive—Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. Submissions may also be sent by email to: *lightweight-crypto@nist.gov*. Note that for email submissions, some of the supporting documentation requires a signature and must be physically mailed to the above address. See *https://csrc.nist.gov/Projects/Lightweight-Cryptography* for complete submission instructions.

FOR FURTHER INFORMATION CONTACT: For general information, send email to *lightweight-crypto@nist.gov*. For questions related to a specific submission package, contact Dr. Kerry McKay, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930, email: *kerry.mckay@nist.gov,* or by telephone: (301) 975–4969.

A public email list has been set up for announcements, as well as a forum to discuss the standardization effort being initiated by NIST. For directions on how to subscribe, please visit *https://csrc.nist.gov/Projects/Lightweight-Cryptography*.

SUPPLEMENTARY INFORMATION: The deployment of small computing devices, such as RFID tags, industrial controllers, sensor nodes and smart cards, is becoming increasingly common. The shift in focus from desktop computers to small devices brings a wide range of new security and privacy concerns. In many conventional cryptographic standards, the tradeoff between security, performance and resource requirements was optimized for desktop and server environments, and this makes the standards difficult or impossible to implement in resource-constrained devices. Therefore, when current NIST-approved algorithms can be engineered to fit within the limited resources of constrained environments, their performance may not be acceptable.

In recent years, there has been increased demand for cryptographic standards that are tailored for constrained devices. NIST has decided to create a portfolio of lightweight cryptographic algorithms, designed for limited use in applications and environments where cryptographic operations are performed by constrained devices that are unable to use existing NIST standards.

Previously, NIST solicited public comment on draft minimum acceptability requirements, submission requirements, and evaluation criteria for candidate algorithms (83 FR 22251, May 14, 2018). The comments received are posted at *https://csrc.nist.gov/Projects/Lightweight-Cryptography,* along with a summary of the changes made as a result of these comments.

The purpose of this notice is to announce that nominations for lightweight candidate algorithms may now be submitted, up until the final deadline of February 25, 2019. Complete instructions on how to submit a candidate package, including the minimal acceptability requirements, are posted at *https://csrc.nist.gov/Projects/Lightweight-Cryptography*.

Authority: 15 U.S.C. 278g–3.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2018–18433 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Institute of Standards and Technology Performance Review Board Membership

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice lists the membership of the National Institute of Standards and Technology Performance Review Board (NIST PRB) and supersedes the list published on September 15, 2017.

DATES: The changes to the NIST PRB membership list announced in this notice are effective August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Didi Hanlein at the National Institute of Standards and Technology, (301) 975–3020 or by email at *desiree.hanlein@nist.gov*.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology Performance Review Board (NIST PRB or Board) reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

This notice lists the membership of the NIST PRB and supersedes the list published in the **Federal Register** on September 15, 2017 (82 FR 43335).

NIST PRB Members:

Jennifer Ayers (C), Director, Office of the Secretary Financial Management, Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/18.

Joannie Chin (C) (alternate), Deputy Director, Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/19.

Robert Fangmeyer (C) (alternate), Director, Baldrige Performance Excellence Program, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Howard Harary (C), Director, Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

James St. Pierre (C) (alternate), Deputy Director, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/18.

Carroll Thomas (C), Director, Hollings Manufacturing Extension Partnership Program, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/19.

Alexander Zemek (NC), Chief of Staff, Bureau of Industry and Security, Washington, DC 20230, Appointment Expires: 12/31/19.

Authority: 5 U.S.C. 4301 *et seq.*

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2018–18435 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Meeting of the Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Visiting Committee on Advanced Technology (VCAT or Committee) will meet on Tuesday, October 16, 2018, from 8:30 a.m. to 5:00 p.m. Mountain Time, and Wednesday, October 17, 2018, from 8:30 a.m. to 11:30 a.m. Mountain Time. The VCAT is composed of not fewer than 9 members appointed by the NIST Director, eminent in such fields as business, research, new

product development, engineering, labor, education, management consulting, environment, and international relations.

DATES: The VCAT will meet on Tuesday, October 16, 2018, from 8:30 a.m. to 5:00 p.m. and Wednesday, October 17, 2018, from 8:30 a.m. to 11:30 a.m. Mountain Time.

ADDRESSES: The meeting will be held in the Katharine Blodgett Gebbie Laboratory Conference Room, Room 81–1A106, at NIST, 325 Broadway Street, Boulder, Colorado 80305. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, Maryland 20899–1060, telephone number 301–975–2667. Ms. Shaw's email address is *stephanie.shaw@nist.gov*.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 278, as amended, and the Federal Advisory Committee Act, as amended, 5 U.S.C. App

The purpose of this meeting is for the VCAT to review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on major programs at NIST. In addition, the meeting will include presentations and discussions on NIST's role in quantum science, technology transfer, and an update on public safety. The Committee also will review NIST's facilities plans and progress on ongoing renovation efforts. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm*.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. Approximately one-half hour on Wednesday, October 17, 2018, will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received but, is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm*. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to VCAT, NIST, 100 Bureau Drive, MS 1060, Gaithersburg, Maryland 20899, via fax at 301–216–0529 or electronically by email to *stephanie.shaw@nist.gov,* by 5:00 p.m. Eastern Time, Monday, October 8, 2018.

All visitors to the NIST site are required to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Emily Luce by 5:00 p.m. Eastern Time, Tuesday, October 9, 2018. Non-U.S. citizens must submit additional information; please contact Ms. Luce. Ms. Luce's email address is *emily.luce@nist.gov* and her phone number is 301–975–2661. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Luce at 301–975–2661 or visit: *http://nist.gov/public_affairs/visitor/*.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2018–18434 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG433

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, September 18, 2018 at 10 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review results from the 2018 herring benchmark assessment (65th Northeast Regional Stock Assessment Workshop, SAW 65). They will review public comments on the Draft Environmental Impact Statement (DEIS) for Amendment 8 to the Herring Fishery Management Plan (FMP), and discuss final preferred alternative recommendations. They will also discuss possible measures to include for consideration in the 2019–21 fishery specifications action including discussion of a potential independent action for fishing year 2019 that NOAA Fisheries may develop. A separate action may be considered to set fishery specifications for 2019 because final measures for 2019–21 developed through the Council process are not expected to be implemented until mid-year of 2019. Also on the agenda is initial discussion of potential 2019 herring work priorities. They will discuss other business as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18455 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG407

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Law Enforcement Committee, Tilefish Committee, and Highly Migratory Species Committee will jointly hold a public meeting.

DATES: The meeting will be held on Thursday, September 20, 2018, from 11 a.m. until 1 p.m.

ADDRESSES: The meeting will be held via conference call. Details on the proposed agenda, connection information, and briefing materials will be posted at the MAFMC's website: *www.mafmc.org*.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's (MAFMC's) Law Enforcement Committee, Tilefish Committee, and Highly Migratory Species Committee will jointly to discuss two important issue: (1) The sale of golden tilefish and tuna by recreational vessels that do not possess permits allowing for the sale of those species or possess Coast Guard vessel safety requirements for commercial vessels; (2) Responsibilities of for-hire captains regarding fishing regulation (*e.g.,* minimum size limit, bag limit) on for hire-trips. The purpose of the conference call is to discuss these two issues and develop an agenda and set of questions to be discussed at a workshop at a later date. An agenda and background documents will be posted at the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18447 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG434

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 19, 2018 at 9 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review results from the 2018 herring benchmark assessment (65th Northeast Regional Stock Assessment Workshop, SAW 65). They will review public comments on the Draft Environmental Impact Statement (DEIS) for Amendment 8 to the Herring Fishery Management Plan (FMP), and discuss final preferred alternative recommendations. They will also discuss possible measures to include for consideration in the 2019–21 fishery specifications action including discussion of a potential independent action for fishing year 2019 that NOAA Fisheries may develop. A separate action may be considered to set fishery specifications for 2019 because final measures for 2019–21 developed through the Council process are not expected to be implemented until mid-year of 2019. Also on the agenda is initial discussion of potential 2019 herring work priorities. They will discuss other business as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18457 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG437

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning (EOP) Committee will hold a meeting.

DATES: The meeting will be held on Wednesday, September 12, 2018, from 10 a.m. to 4:30 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place at the Royal Sonesta Harbor Court, 550 Light Street, Baltimore, MD 21202; telephone (410) 234–0550.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the EOP

Committee to utilize the information from the approved Risk Assessment and identify scientific and management priorities, as outlined in the Ecosystem Approach to Fisheries Management (EAFM) guidance document. The Committee will consider different ways to evaluate the Risk Assessment to help identify priorities for Council consideration. In addition, the Committee may take up any other business as necessary. A detailed agenda and any pertinent background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18474 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG430

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, September 13, 2018 at 9 a.m.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; phone: (774) 634–2000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel will review results from SARC 65 Benchmark Assessment and preliminary 2018 scallop survey results. They will discuss initial recommendations from the Scallop Plan Development Team (PDT) for FY 2019 and FY 2020 (default) fishery specifications (Framework 30); The panel will also review and provide input on Framework 30 management measures; which include standard default measures. They also plan to review and discuss results from Committee tasking on LAGC IFQ trip limits. The panel will receive an update on progress toward 2018 work priorities and develop a list of potential 2019 scallop work priorities. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18450 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG436

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning (EOP) Committee will hold a meeting.

DATES: The meeting will be held on Monday, September 10, 2018, from 10 a.m. to 12 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place over webinar with a telephone-only connection option. Details on how to connect to the webinar by computer and by telephone will be available at: *http://www.mafmc.org*.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the EOP Committee to review the NOAA Fisheries draft Ecosystem Based Fisheries Management (EBFM) Implementation Plan for the Northeast Region. The draft plan is currently available for public comment until September 30, 2018. Given the scope and potential role the draft plan may have with the Council's Ecosystem Approach to Fisheries Management (EAFM) guidance document, the Committee will review and develop comments specific to the draft Northeast Regional plan.

A detailed agenda and any pertinent background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18456 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG431

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its *Scallop* Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, September 14, 2018 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; phone: (774) 634–2000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will review results from SARC 65 Benchmark Assessment and preliminary 2018 scallop survey results. They will discuss initial recommendations from the Scallop Plan Development Team (PDT) for FY 2019 and FY 2020 (default) fishery specifications (Framework 30); the panel will also review and provide input on Framework 30 management measures; which include standard default measures. They also plan to review and discuss results from Committee tasking on LAGC IFQ trip limits. The panel will receive an update on progress toward 2018 work priorities and develop a list of potential 2019 scallop work priorities. They will also review the Advisory Panel recommendations. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18454 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG425

Fisheries of the Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 57 Assessment Webinar I for Caribbean spiny lobster.

SUMMARY: The SEDAR 57 stock assessment process for Caribbean spiny lobster will consist of a Data Workshop, a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 57 Assessment Webinar I will be held September 19, 2018, from 2 p.m. to 4 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar. SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366. Email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

1. Using datasets and initial assessment analysis recommended from the Data Webinar, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come

before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18449 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG439

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Crab Plan Team will meet September 10–13, 2018.

DATES: The meeting will be held on Monday, September 10, 2018 through Thursday, September 13, 2018, from 9 a.m. to 5 p.m. Pacific Time each day.

ADDRESSES: The meeting will be held in the Traynor Room, Building 4 at the Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Stram, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 10, 2018 Through Thursday, September 13, 2018

The agenda will include: (a) Survey overview; (b) catch data overview; (c) BSAI crab PSC accounting; (d) ecosystem chapter overview; (e) ADF&G pot survey data collection; (f) final assessments for Snow crab, Tanner crab, Bristol Bay red king crab (including an update on a new model formulation proposed for 2019/20) and St. Matthew blue king crab; (g) review of Tanner crab industry survey and proposed harvest strategy changes; (h) update on model scenarios proposed for Norton Sound Red King Crab in 2019 and some preliminary harvest control rule simulations for Aleutian Islands golden king crab; (i) meeting planning for 2019 and a finalization of the 2018 SAFE report including catch numbers for previously assessed Tier 5 stocks and; (j) other business.

The Agenda is subject to change, and the latest version will be posted at *www.npfmc.org* prior to the meeting, along with meeting materials.

Public Comment

Public comment letters will be accepted and should be submitted either electronically to Diana Stram, Council staff: *diana.stram@noaa.gov* or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252. In-person oral public testimony will be accepted at the discretion of the chair.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18459 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG438

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The meeting will be held on Tuesday, September 11, 2018, from 9 a.m. to 4 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place at the Royal Sonesta Harbor Court, 550 Light Street, Baltimore, MD 21202; telephone: (410) 234–0550.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to make multi-year (2019–21 fishing years) Acceptable Biological Catch (ABC) recommendations for spiny dogfish based on updated stock assessment information. The SSC will also review their previous ABC recommendation for the 2019 and 2020 fishing years for *Illex* squid. The SSC will also review possible changes to the stock assessment schedule and review process for Mid-Atlantic and New England species as proposed by the Northeast Regional Coordinating Council (NRCC). In addition, the SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 22, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–18458 Filed 8–24–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before September 26, 2018.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of this notice's publication, by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0092.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov*, or
- *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the ''Commission'') by either of the following methods. The copies should refer to ''OMB Control No. 3038–0092.''

- Through the Commission's website at *http://comments.cftc.gov*. Follow the instructions for submitting comments through the website.
- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; or
- By Hand Delivery/Courier to the same address.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov*.

FOR FURTHER INFORMATION CONTACT: Christopher Hower, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–6703; email: *chower@cftc.gov,* and refer to OMB Control No. 3038–0092.

SUPPLEMENTARY INFORMATION:

Title: Customer Clearing Documentation and Timing of Acceptance for Clearing (OMB Control No. 3038–0092). This is a request for extension of a currently approved information collection.

Abstract: Section 4d(c) of the CEA, as amended by the Dodd-Frank Act, directs the Commission to require futures commission merchants to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Similarly, section 4s(j)(5), as added by the Dodd-Frank Act, requires swap dealers and major swap participants to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Section 4s(j)(5) also requires swap dealers and major swap participants to ensure that any persons providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions from persons whose involvement in pricing, trading, or clearing activities might bias their judgment or contravene the core principle of open access. Section 4s(j)(6) of the CEA prohibits a swap dealer and major swap participant from adopting any process or taking any action that results in any unreasonable restraint on trade or imposes any material anticompetitive burden on trading or clearing, unless necessary or appropriate to achieve the purposes of the Act. Section 2(h)(1)(B)(ii) of the CEA requires that derivatives clearing organization rules provide for the non-discriminatory clearing of swaps executed bilaterally or through an unaffiliated designated contract market or swap execution facility.

Pursuant to these provisions, the Commission adopted § 1.71(d)(1) relating to FCMs and § 23.605(d)(1) relating to swap dealers and major swap participants. These regulations prohibit swap dealers and major swap participants from interfering or attempting to influence the decisions of affiliated FCMs with regard to the provision of clearing services and activities and prohibit FCMs from permitting them to do so. Also, § 23.607 prohibits a swap dealer and major swap participant from adopting any process or taking any action that results in any unreasonable restraint on trade or imposes any material anticompetitive burden on trading or clearing, unless necessary or appropriate to achieve the purposes of the Act. Additionally, § 39.12(b)(2) requires that derivatives clearing organization rules provide for the non-discriminatory clearing of swaps executed bilaterally or through an unaffiliated designated contract market or swap execution facility. Sections 1.71(f) and 23.605(f) provide that records be maintained pursuant to Commission Regulation 1.31.

As discussed further below, the additional information collection burden arising from the proposed regulations primarily is restricted to the costs associated with the affected registrants' obligation to maintain records related to clearing documentation between the customer and the customer's clearing member.

The information collection obligations imposed by the regulations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among SDs, MSPs, FCMs, and DCOs.

Burden Statement: The Commission is revising its estimate of the burden for this collection, which include 101 Swap Dealers, Major Swap Participants, 65 Futures Commission Merchants and 16 Derivatives Clearing Organizations. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 182.

[1] 17 CFR 145.9.

Estimated Average Burden Hours per Respondent: 18.1 hours.

Estimated Total Annual Burden Hours: 3,296 hours.

Frequency of Collection: Daily, annually, or as needed.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 22, 2018.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2018–18532 Filed 8–24–18; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: General Counsel of the Department of Defense, Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting; cancellation.

SUMMARY: On Friday, August 10, 2018, the Department of Defense published a notice that announced a meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC–IPAD). The meeting was to have taken place on Thursday, August 23, 2018. Subsequent to the publication of that notice, the Department of Defense cancelled the meeting of August 23, 2018 due to a lack of quorum for the meeting.

FOR FURTHER INFORMATION CONTACT: Dwight Sullivan, 703–695–1055 (Voice), *dwight.h.sullivan.civ@mail.mil* (Email). Mailing address is DACIPAD, One Liberty Center, 875 N Randolph Street, Suite 150, Arlington, Virginia 22203. Website: *http://dacipad.whs.mil/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense (DoD) and the Designated Federal Officer, the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the cancellation of its meeting on August 23, 2018. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

The DAC–IPAD meeting that published in the **Federal Register** on Friday, August 10, 2018 (83 FR 39730–39731) has been cancelled. A notice announcing the re-scheduled meeting will publish at a later date in the **Federal Register**.

Dated: August 22, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–18522 Filed 8–24–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Reserve Forces Policy Board, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: The RFPB will hold an open meeting to the public Wednesday, September 12, 2018 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The address for the Open Session of the meeting is the Army Navy Country Club, 1700 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Alexander Sabol, (703) 681–0577 (Voice), 703–681–0002 (Facsimile), *Alexander.J.Sabol.Civ@Mail.Mil* (Email). Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Website: *http://rfpb.defense.gov/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

FOR FURTHER INFORMATION CONTACT: Alexander Sabol, (703) 681–0577 (Voice), 703–681–0002 (Facsimile), *Alexander.J.Sabol.Civ@Mail.Mil* (Email). Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Website: *http://rfpb.defense.gov/*. The most up-to-date changes to the meeting agenda can be found on the website and the **Federal Register**.

Purpose of the Meeting: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold an open meeting to the public Wednesday, September 12, 2018 from 8:30 a.m. to 4:30 p.m. The meeting will focus on discussions with the Acting Assistant Secretary of Defense Manpower and Reserve Affairs who will discuss the Secretary of Defense's goals, readiness objectives, and challenges for the ''Operational Reserve'' as part of the Total Force, and personnel initiatives pertaining to the Reserve Components. The Deputy Chief of Staff for Manpower, Personnel and Services, Headquarters U.S. Air Force; the Deputy Chief of Staff, G–1, Headquarters, Department of the Army; the Director, Military Personnel Plans and Policy (OPNAV N13), Chief of Naval Operations; the Director, Manpower Management Division, Manpower and Reserve Affairs, Headquarters, U.S. Marine Corps; and the Acting Director, Reserve and Military Personnel, Headquarters, U.S. Coast Guard who will discuss their Service's recruiting and retention issues, personnel readiness, and plans to adapt their personnel system to meet the future Total Force challenges. The Director of Manpower and Legislation and Systems, Personnel and Readiness will provide the progress on the Department of Defense's Duty Status Reform efforts. The Director, Defense POW/MIA Accounting Agency will discuss the Department of Defense's POW/MIA Accounting Agency's initiatives to achieve their goal of providing families and the nation with the fullest possible accounting of missing personnel from past conflicts. And the Board meeting will conclude with a briefing from the Chair of the RFPB's Subcommittee on the Subcommittee on Ensuring a Ready, Capable, Available and Sustainable Operational Reserve on the RFPB on the subcommittee's review and proposed recommendation to the Secretary of

Defense concerning the DoD's ''Operational Reserve'' definition.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 8:30 a.m. to 4:30 p.m. Seating is based on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Tuesday, September 11, 2018, as listed in the **FOR FURTHER INFORMATION CONTACT**.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the RFPB at any time about its approved agenda or at any time on the Board's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's website.

Dated: August 22, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–18501 Filed 8–24–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–2252–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: MC Project Company LLC

This is a supplemental notice in the above-referenced proceeding of MC Project Company 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 September 10, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18466 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Order On Intent To Revoke Market-Based Rate Authority

Before Commissioners: Kevin J. McIntyre, Chairman; Cheryl A. LaFleur, Neil Chatterjee, and Richard Glick.

	Docket Nos.
Electric Quarterly Reports	ER02–2001–020
L&L Energy LLC	ER12–327–000
Bartram Lane LLC	ER12–2309–000
Aspirity Energy, LLC	ER16–1458–000
Palama, LLC	ER10–2809–000
Promet Energy Partners, LLC	ER12–733–001

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2012), and 18 CFR part 35 (2017), require, among other things, that all rates, terms, and conditions for jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports.[1]

2. The Commission requires sellers with market-based rate authorization to file Electric Quarterly Reports summarizing contractual and transaction information related to their market-based power sales as a condition for retaining that authorization.[2]

[1] *Revised Public Utility Filing Requirements,* Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 120 FERC ¶ 61,270, *order on reh'g and clarification,* Order No. 2001–H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, FERC Stats. & Regs. ¶ 31,282 (2008). *See also Filing Requirements for Electric Utility Service Agreements,* 155 FERC ¶ 61,280, *order on reh'g and clarification,* 157 FERC ¶ 61,180 (2016) (clarifying Electric Quarterly Reports reporting requirements and updating Data Dictionary).

[2] *See Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 816, FERC Stats. & Regs. ¶

Continued

Commission staff's review of the Electric Quarterly Reports indicates that the following five public utilities with market-based rate authorization have failed to file their Electric Quarterly Reports: L&L Energy LLC, Bartram Lane LLC, Aspirity Energy, LLC, Palama, LLC, and Promet Energy Partners, LLC. This order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that,

> [i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.[3]

4. The Commission further stated that,

> [o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.[4]

5. Pursuant to these requirements, the Commission has revoked the market-based rate tariffs of market-based rate sellers that failed to submit their Electric Quarterly Reports.[5]

6. Sellers must file Electric Quarterly Reports consistent with the procedures set forth in Order Nos. 2001, 768,[6] and 770.[7] The exact filing dates for Electric Quarterly Reports are prescribed in 18 CFR 35.10b (2017). As noted above, Commission staff's review of the Electric Quarterly Reports for the period up to the first quarter of 2018 identified five public utilities with market-based rate authorization that failed to file Electric Quarterly Reports. Commission staff contacted or attempted to contact these entities to remind them of their regulatory obligations. Despite these reminders, the public utilities listed in the caption of this order have not met these obligations. Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

7. In the event that any of the above-captioned market-based rate sellers has already filed its Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

8. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff.

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all delinquent Electric Quarterly Reports. If a public utility subject to this order fails to make the filings required in this order, the Commission will revoke that public utility's market-based rate authorization and will terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Issued August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18462 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

31,374 (2015), *order on reh'g,* Order No. 816–A, 155 FERC ¶ 61,188 (2016); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 3, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011), *cert. denied, sub nom. Public Citizen, Inc.* v. *FERC,* 567 U.S. 934 (2012).

[3] Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 222.

[4] *Id.* P 223.

[5] *See, e.g., Electric Quarterly Reports,* 82 FR 60,976 (Dec. 26, 2017); *Electric Quarterly Reports,* 80 FR 58,243 (Sep. 28, 2015); *Electric Quarterly Reports,* 79 FR 65,651 (Nov. 5, 2014).

[6] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g,* Order No. 768–A, 143 FERC ¶ 61,054 (2013), *order on reh'g,* Order No. 768–B, 150 FERC ¶ 61,075 (2015).

[7] *Revisions to Electric Quarterly Report Filing Process,* Order No. 770, FERC Stats. & Regs. ¶ 31,338 (2012).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–122–000.
Applicants: Green River Wind Farm Phase 1, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status for Green River Wind Farm Phase 1, LLC.
Filed Date: 8/17/18.
Accession Number: 20180817–5034.
Comments Due: 5 p.m. ET 9/7/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2231–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC Revised Depreciation Rates to be effective 8/1/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5123.
Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER18–2232–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to OA Sections RE Confidentiality of Data and Information to be effective 10/15/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5136.
Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER18–2233–000.
Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AEP Ohio et al. submits ILDSA, Service Agreement No. 1336 btwn AEPSC and Buckeye to be effective 7/17/2018.
Filed Date: 8/17/18.
Accession Number: 20180817–5020.
Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2234–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2018–08–17 Spring Canyon, Tri-State

IA–440–0.0.0-Filing to be effective 10/17/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5023.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2236–000.

Applicants: Parrey, LLC.

Description: § 205(d) Rate Filing: Amended and Restated Henrietta Shared Facilities Agreement No. 1 Filing to be effective 8/17/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5043.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2237–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 2826, Queue No. None (Consent) to be effective 6/1/2011.

Filed Date: 8/17/18.

Accession Number: 20180817–5044.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2238–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–08–17_SA 3154 ATC–ACEC Project Commitment Agreement (Hancock) to be effective 10/17/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5050.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2239–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–08–17_SA 3155 ATC–ACEC Project Commitment Agreement (Springwater) to be effective 10/17/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5052.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2240–000.

Applicants: Yavi Energy, LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 10/1/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5073.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2241–000.

Applicants: Garnet Wind, LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 10/1/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5080.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2242–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2018–08–17 Energy Storage and Distributed Energy Resource Phase 2 Amendment to be effective 11/1/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5085.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2243–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Morgan Transformer Project Cost Allocation (Part 1) to be effective 10/16/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5141.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2244–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B Revisions to be effective 10/17/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5142.

Comments Due: 5 p.m. ET 9/7/18.

Docket Numbers: ER18–2245–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Morgan Transformer Project Cost Allocation (Part 2) to be effective 10/16/2018.

Filed Date: 8/17/18.

Accession Number: 20180817–5143.

Comments Due: 5 p.m. ET 9/7/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–56–000.

Applicants: GridLiance High Plains LLC.

Description: Application for Authorization under Section 204 of the Federal Power Act of GridLiance High Plains LLC.

Filed Date: 8/16/18.

Accession Number: 20180816–5159.

Comments Due: 5 p.m. ET 9/6/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18420 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–45–000]

Notice of Schedule for Environmental Review of the Dominion Energy Transmission, Inc. Sweden Valley Project

On January 10, 2018, Dominion Energy Transmission, Inc. (Dominion) filed an application in Docket No. CP18–45–000 requesting a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Sweden Valley Project (Project), and involves the construction and operation of facilities located in Licking and Tuscarawas Counties, Ohio and Armstrong, Clinton, and Greene Counties, Pennsylvania. The Project would enable Dominion to provide 120,000 dekatherms per day of firm transportation service from Pennsylvania to Ohio for delivery to Tennessee Gas Pipeline Company, LLC.

On January 24, 2018, The Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—August 31, 2018

90-Day Federal Authorization Decision Deadline—November 29, 2018

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Dominion proposes to construct and operate the following facilities Ohio: construction of 1.7 miles 20-inch-diameter lateral to the new Port

Washington Metering and Regulation (M&R) delivery point in Tuscarawas County, re-wheel compressors on three existing centrifugal compression sets at Dominion's existing Newark Compressor Station in Licking County, and construction of a pig launcher/receiver south of the existing Gilmore M&R station in Tuscarawas County.

In addition, Dominion proposes to construct and operate the following facilities in Pennsylvania: 3.2 miles of 24-inch-diameter pipeline looping in Greene County (TL–654 PA Loop), installation of regulation equipment at Dominion's existing South Bend Compressor Station in Armstrong County and Leidy M&R Station in Clinton County, and new mainline gate valves at the proposed TL–654 PA Loop in Greene County.

Background

On March 13, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Sweden Valley Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local governmental representatives and agencies; elected officials; environmental and public interest groups; potentially interested Indian tribes; and local libraries and newspapers. In response to the NOI, we received a total of 15 comments letters. The comments addressed support for the project, purpose and need, water resources and wetlands, geology, vegetation, wildlife, fisheries, threatened and endangered species, land use and recreation, air quality/greenhouse gas emissions, alternative analysis, tribal cultural resources and the National Historic Preservation Act, and cumulative impacts. All substantive comments will be addressed in the EA.

The U.S. Army Corps of Engineers is a federal cooperating agency who is assisting us in preparing this EA because they have jurisdiction by law or special expertise with respect to environmental impacts associated with Dominion's proposal.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.* CP18–45), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18464 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4784–095]

Topsham Hydro Partners Limited Partnership Pejepscot Hydroelectric Project; Notice of Dispute Resolution Panel Meeting and Technical Conference, and Revised Schedule

On August 21, 2018, Commission staff, in response to the filing of a notice of study dispute by the U.S. National Marine Fisheries Service (NMFS) on August 1, 2018, convened a single three-person Dispute Resolution Panel (Panel) pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference, via conference call, at the time identified below. The technical conference will address the study dispute identified in Enclosure A of the August 1, 2018 filing which includes predation by non-native predators on native anadromous fish, including the endangered Atlantic salmon. The panel will not address the study comments identified in Enclosure B of the August 1, 2018 filing which includes comments on studies which NMFS is not disputing.

The purpose of the technical session is for the disputing agency, applicant, and Commission to provide the Panel with additional information necessary to evaluate the disputed studies. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate in the conference call as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at its discretion, limit the speaking time for each participant.

The schedule for completing the Formal Study Dispute Process follows:

August 21, 2018—Panel Convenes
August 28, 2018—Panel submits questions to Parties
September 6, 2018—Parties submit written comments, answers Panel questions
September 11, 2018—Technical Conference Call
September 20, 2018—Panel submits findings to Director Office of Energy Projects

Technical Conference Call

Date: Tuesday September 11, 2018
Time: 10:00 a.m.–12:00 p.m. (EST)

Conference Call-in Information:

Cisco Unified Meeting Place
Meeting ID No. 0255
Call in within DC, 202–502–6888
Call in Outside DC, 1–877–857–1347

For more information, please contact Monte TerHaar, the Dispute Resolution Panel Chair, at *monte.terhaar@ferc.gov* or 202–502–6035.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18467 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–89–000]

Empire Pipeline, Inc.; Notice of Schedule for Environmental Review of the Empire North Project

On February 19, 2018, Empire Pipeline, Inc. (Empire) filed an application in Docket No. CP18–89–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Empire North Project (Project), and would provide about 205 million cubic feet per day of

incremental firm transportation capacity.

On March 5, 2018, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—November 20, 2018
90-day Federal Authorization Decision Deadline—February 18, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Empire proposes to construct and operate gas compression facilities in Tioga County, Pennsylvania and Ontario, New York. The Empire North Project would consist of the following facilities:

- A new 21,000 horsepower compressor station in Jackson Township, Tioga County, Pennsylvania;
- a new 32,000 horsepower compressor station in the Town of Farmington, Ontario County, New York;
- modifications of the existing regulator valves and station piping and installation of metering facilities at the existing New Victor Regulator Station in Ontario County, New York;
- minor modifications to the existing Jackson Meter and Regulator Station in Jackson Township, Tioga County, Pennsylvania; and
- upgrading the maximum allowable operating pressure of the Empire Connector Pipeline from 1,290 pounds per square inch gauge (psig) to 1,440 psig.

Background

On April 10, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Empire North Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to federal, state, and local government representatives and agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the New York State Thruway Authority and the U.S. Environmental Protection Agency. The primary issues raised by the commentors are alternatives, accessing the site, the location of a construction staging area near a driveway, cumulative impacts analysis, climate change, air quality, safety, and environmental justice. All substantive comments will be addressed in the EA.

The U.S. Department of Transportation is a cooperating agency in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP18–89), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: August 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18421 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2570–032]

AEP Generation Resources, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2570–032.

c. *Dated Filed:* July 2, 2018.

d. *Submitted by:* AEP Generation Resources, Inc.

e. *Name of Project:* Racine Hydroelectric Project.

f. *Location:* The Racine Project is located at the U.S. Army Corps of Engineers' (Corps) Racine Locks and Dam on the Ohio River near the Town of Racine in Meigs County, Ohio. The project occupies 23 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Jonathan Magalski, Environmental Specialist Consultant, c/o Indiana Michigan Power Company, 1 Riverside Plaza, Columbus, OH 43215; (614) 716–2240 or *jmmagalski@aep.com*.

i. *FERC Contact:* Jay Summers at (202) 502–8764 or email at *jay.summers@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing

regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating AEP Generation Resources, Inc. as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. AEP Generation Resources, Inc. filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*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 at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents 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*. 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–2570–032.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by October 30, 2018.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, the meetings listed below will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting—Pomeroy, Ohio

Date and Time: Tuesday, September 26, 2018 at 6:30 p.m.

Location: Farmers Bank and Savings Company, 640 E Main St., Pomeroy, OH 45769, (740) 992–2136.

Daytime Scoping Meeting—Pomeroy, Ohio

Date and Time: Wednesday, September 27, 2018 at 9:00 a.m.

Location: Farmers Bank and Savings Company, 640 E Main St., Pomeroy, OH 45769, (740) 992–2136.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an Environmental Site Review of the project on Tuesday, September 26, 2018, starting at 2:00 p.m. All participants should meet at the Racine Hydroelectric Project's public fishing/picnic access parking lot, which is located on the Ohio River Scenic Byway, State Route 124, approximately 3 miles south of Racine, Ohio. If you plan to attend the environmental site review, please email Jonathan Magalski of AEP Generation Resources at *jmmagalski@aep.com* (preferred contact) or (614) 716–2240 by September 21, 2018, and indicate how many participants will be attending with you. AEP Generation Resources' safety policies require that all environmental site review participants wear sturdy footwear; no open toe, sandals, high heels, etc.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in paragraph n of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18463 Filed 8–24–18; 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 corporate filings:

Docket Numbers: EC18–78–000.
Applicants: Florida Power & Light Company.
Description: Second Supplement to July 5, 2018 Response to June 5, 2018 Deficiency Letter of Florida Power & Light Company.
Filed Date: 8/21/18.
Accession Number: 20180821–5084.
Comments Due: 5 p.m. ET 9/11/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1286–001.
Applicants: FirstEnergy Solutions Corp.
Description: Compliance filing: Notice of Transaction Closing and Effective Date of Rate Schedule FERC No. 1 to be effective 7/31/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5050.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2264–000.
Applicants: Macquarie Energy Trading LLC.
Description: Baseline eTariff Filing: MBR Application to be effective 10/21/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5042.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2265–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to First Revised ISA No. 3255; Queue No. W4–073 to be effective 11/2/2016.
Filed Date: 8/21/18.
Accession Number: 20180821–5043.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2266–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1910R12 Southwestern Public Service Company to be effective 8/1/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5046.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2267–000.
Applicants: Entergy Texas, Inc.
Description: Tariff Cancellation: ETI-Kirbyville Wholesale Distribution Service Agreement to be effective 7/11/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5047.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2268–000.
Applicants: Entergy Services, Inc.
Description: Tariff Cancellation: Kirbyville-EES Local Balancing Authority Agreement to be effective 7/11/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5048.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2269–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA/SA No. 4606; Queue No. AA1–046 to be effective 8/20/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5064.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2270–000.
Applicants: Paulding Wind Farm III LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 10/20/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5069.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2271–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–08–21_SA 3158 ATC-Plymouth Project Commitment Agreement to be effective 10/21/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5077.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2272–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–08–21_SA 3144 Entergy Texas-Liberty County-Entergy Texas MPFCA (J472 J483) to be effective 8/7/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5093.
Comments Due: 5 p.m. ET 9/11/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18469 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Public Notice: Records Governing Off-the-Record Communications

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 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 website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. EL16–49–000, ER18–1314–000, ER18–1314–001, EL18–178–000.	8–6–2018	Natural Gas Supply Association.
2. CP15–554–000, CP16–10–000	8–13–2018	Rachael Kennedy.
3. P–12514–074	8–20–2018	FERC Staff.[1]
4. P–12496–002	8–20–2018	FERC Staff.[2]
Exempt		
1. CP18–26–000	8–8–2018	U.S. Department of Interior, Fish and Wildlife Service.
2. CP17–458–000	8–9–2018	State of Oklahoma House Majority Leader Mike Sanders.
3. CP17–458–000	8–9–2018	State of Oklahoma House Representative Marcus McEntire.
4. CP17–101–000	8–13–2018	FERC Staff.[3]
5. CP17–117–000, CP17–118–000	8–13–2018	U.S. Congressman Tim Ryan.
6. CP18–46–000	8–16–2018	U.S. Department of Transportation Pipeline Hazardous Material Safety Administration.

[1] Memorandum dated 8/20/2018 reporting voicemail message from Pat Carroll.
[2] Memorandum dated 8/20/2018 forwarding email communication from William Foster of the National Marine Fisheries Service.
[3] Meeting minutes for teleconference held on 7/30/2018 with Transco.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18470 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5218–002]

Notice of Intent To Terminate Conduit Exemption and Soliciting Comments, Protests, and Motions To Intervene: City of San Luis Obispo

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of small conduit exemption by implied surrender.

b. *Project No.:* 5218–002.

c. *Date Initiated:* August 21, 2018.

d. *Exemptee:* City of San Luis Obispo, California.

e. *Name and Location of Project:* This conduit hydroelectric project is located on the City of San Luis Obispo's water supply in San Luis Obispo County, California.

f. *Filed Pursuant to:* 18 CFR 4.94 (Standard Article 1).

g. *Exemptee Contact Information:* Mr. Wade Horton, Water Division Manager, San Luis Obispo, 879 Morro Street, San Luis Obispo, CA 93401; phone: (805) 781–7237.

h. *FERC Contact:* Jennifer Polardino, (202) 502–6437, *Jennifer.Polardino@ferc.gov*.

i. Deadline for filing comments, protests, or motions to intervene is 30 days from the issuance of this notice by the Commission. Please file your submittal electronically via the internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's website under *http://www.ferc.gov/docs-filing/efiling.asp* and filing instructions in the Commission's Regulations at 18 CFR 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at *http://www.ferc.gov/help/submission-guide/user-guide.pdf*. In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these ''qualified documents'' at *http://www.ferc.gov/docs-filing/efiling/filing.pdf*. You must include your name and contact information at the end of your comments. Please include the project number (P–5218–002) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ–12, 888 First Street NE, Washington, DC 20426.

j. *Description of Project Facilities:* As authorized, the project uses the following existing water supply facilities: (1) A 5,133-foot-long, 18-inch diameter Salinas pipeline; (2) an existing 4,080-foot-long, 12-inch diameter San Luis Obispo City pipeline, which serves as the project's penstock; (3) a powerhouse containing a generating unit with a nameplate capacity of 680 kilowatts; and (4) a transmission line that connects the powerhouse to an existing Pacific Gas and Electric Company distribution line.

k. *Description of Proceeding:* The exemptee is in violation of Standard Article 1 of its exemption issued on January 17, 1982 (18 FERC ¶ 62,059). Article 1 provides, among other things, that the Commission may terminate an exemption if any term or condition of the exemption is violated.

Commission records, including correspondence with the exemptee, show that the San Luis Obispo Project has not operated since June 1993. Since 1995, the Commission has worked with the exemptee to file a plan and schedule to restore operation. Over the years, the exemptee has made many proposals to restart generation, but none have come to fruition. Most recently, on September 19, 2017, the exemptee said it planned to complete new designs by June 2018 for rebuilding portions of the project and would begin construction by December 2018. The exemptee has not filed its new designs and has stopped responding to Commission staff letters seeking updates. On May 24, 2018, Commission staff notified the exemptee

that failure to file a response may result in implied surrender of the project's exemption.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the Docket number (P–5218–002) excluding the last three digits in the docket number field to access the notice. 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 toll-free (866) 208–3676 or email *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659.

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, .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 proceeding.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTIONS TO INTERVENE,'' as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting, or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis. All comments, protests, or motions to intervene should relate to project works which are the subject of the termination of exemption. A copy of any protest or motion to intervene must be served on each representative of the exemptee specified in item g. above. A copy of all other filings in reference to this notice 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.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18465 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3272–006.
Applicants: Lower Mount Bethel Energy, LLC.
Description: Compliance filing: Informational Filing Re Upstream Change in Ownership and Request for Waiver to be effective N/A.
Filed Date: 8/20/18.
Accession Number: 20180820–5064.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–1662–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Deficiency Response—Clarify Contingency Reserve Clearing During CR Events to be effective 7/22/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5101.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2256–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (Eversource) to be effective 10/20/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5143.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2257–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (NG) to be effective 10/20/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5145.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2258–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (Unitil) to be effective 10/20/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5147.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2259–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (HQUS Eversource) to be effective 10/20/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5149.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2260–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (National Grid) to be effective 10/20/2018.
Filed Date: 8/20/18.
Accession Number: 20180820–5151.
Comments Due: 5 p.m. ET 9/10/18.

Docket Numbers: ER18–2261–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (HQUS Additional) to be effective 10/20/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5000.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2262–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Bilateral, Cost-Based Transmission Service Agreements (HQUS Unitil) to be effective 10/20/2018.
Filed Date: 8/21/18.
Accession Number: 20180821–5003.
Comments Due: 5 p.m. ET 9/11/18.

Docket Numbers: ER18–2263–000.
Applicants: Virginia Electric and Power Company.
Description: Petition for Waiver of Formula Rate and Protocols, et al. of Virginia Electric and Power Company.
Filed Date: 8/20/18.
Accession Number: 20180820–5157.
Comments Due: 5 p.m. ET 8/30/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date.

Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18468 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–31–000]

Magellan Pipeline Company L.P.; Notice of Petition for Declaratory Order

Take notice that on August 8, 2018, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2017), Magellan Pipeline Company L.P. (Magellan or Petitioner) filed a Petition for Declaratory Order seeking approval of the overall tariff rate structure and terms and conditions of service, including the proposed priority service prorationing methodology for an expansion of Magellan's refined products pipeline system in Texas, to provide expansion capacity on Magellan's system between East Houston and El Paso, Texas and also allow for refined products to flow more directly and efficiently westward, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on September 14, 2018.

Dated: August 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–18422 Filed 8–24–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[9982–65–OA]

Meetings of the Local Government Advisory Committee and the Small Communities Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

The Local Government Advisory Committee (LGAC) will meet in Washington, DC, on Thursday, September 13, 2018, 9:30 a.m.–5:35 p.m. (EDT), and Friday, September 14,, 2018, 10:45 a.m.–12:30 p.m. (EDT). The focus of the Committee meeting will be on issues pertaining to cooperative federalism; water and water infrastructure issues; per- and polyfluoroalkyl substances (PFAS); superfund and brownfields; and other issues in EPA's Strategic Plan.

The Small Communities Advisory Subcommittee (SCAS) will meet in Washington, DC, on Friday, September 14, 2018, 8:30 a.m.–10:00 a.m. (EDT). The Subcommittee will discuss water infrastructure, agricultural issues, brownfields and other issues and recommendations to the Administrator regarding environmental issues affecting small communities.

These are open meetings, and all interested persons are invited to participate. The SCAS will hear comments from the public between 9:00 a.m. and 9:10 a.m. on Friday, September 14, 2018, and the LGAC will hear comments from the public between 10:50 a.m. and 11:00 a.m. on Friday, September 14, 2018. Individuals or organizations wishing to address the Subcommittee or the Committee will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *eargle.frances@epa.gov*. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule a time on the agenda. Time will be allotted on a first-come first-serve basis, and the total period for comments may be extended if the number of requests for appearances requires it.

ADDRESSES: The Small Communities Advisory Subcommittee meetings will be held at the U.S. Environmental Protection Agency, Rachel Carson Great Room (3000 WJCS), accessible from the William Jefferson Clinton South entrance, Third Floor, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The Local Government Advisory Committee meetings will be held at the U.S. Environmental Protection Agency, Rachel Carson Great Room (3000 WJCS), accessible from the William Jefferson Clinton South entrance, Third Floor. 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Meeting summaries will be available after the meeting online at *www.epa.gov/ocir/scas_lgac/lgac_index.htm* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Local Government Advisory Committee (LGAC) and Small Communities Advisory Subcommittee (SCAS), contact Frances Eargle, Designated Federal Officer, at (202) 564–3115 or email at *eargle.frances@epa.gov*.

Information on Services for Those With Disabilities: For information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or email at *eargle.frances@epa.gov*. To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 7, 2018.

Jack Bowles,

Director, State and Local Relations, EPA's Office of Congressional and Intergovernmental Relations.

[FR Doc. 2018–18409 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0647; FRL–9982–52]

Agency Information Collection Activities; Proposed Renewal of an Exiting Collection (EPA ICR No. 1446.12); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''PCBs, Consolidated Reporting and Recordkeeping Requirements'' and identified by EPA ICR No. 1446.12 and OMB Control No. 2070–0112, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before October 26, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0647, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Erik Winchester, National Programs Chemical Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6450; email address: *winchester.erik@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, specifically the assumptions used for industry burden on Tables 6–2, 6–3, and 6–4 found in the Supporting Statement.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: PCBs, Consolidated Reporting and Recordkeeping Requirements.

ICR number: EPA ICR No. 1446.12.

OMB control number: OMB Control No. 2070–0112.

ICR status: This ICR is currently scheduled to expire on November 30, 2018. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 6(e)(1) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), directs EPA to regulate the marking and disposal of PCBs. Section 6(e)(2) bans the manufacturing, processing, distribution in commerce, and use of PCBs in other than a totally enclosed manner. Section 6(e)(3) establishes a process for obtaining exemptions from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs. Since 1978, EPA has promulgated numerous rules addressing all aspects of the life cycle of PCBs as required by the statute. The regulations are intended to prevent the improper handling and disposal of PCBs and to minimize the exposure of human beings or the environment to PCBs. These regulations have been codified in the various subparts of 40 CFR 761. There are approximately 100 specific reporting, third-party reporting, and recordkeeping requirements covered by 40 CFR 761.

To meet its statutory obligations to regulate PCBs, EPA must obtain sufficient information to conclude that specified activities do not result in an unreasonable risk of injury to health or the environment. EPA uses the information collected under the 40 CFR 761 requirements to ensure that PCBs are managed in an environmentally safe manner and that activities are being conducted in compliance with the PCB regulations. The information collected by these requirements will update the Agency's knowledge of ongoing PCB activities, ensure that individuals using or disposing of PCBs are held accountable for their activities, and demonstrate compliance with the PCB regulations. Specific uses of the information collected include determining the efficacy of a disposal technology; evaluating exemption requests and exclusion notices; targeting compliance inspections; and ensuring adequate storage capacity for PCB waste. This collection addresses the several information reporting requirements found in the PCB regulations.

Responses to the collection of information are mandatory (see 40 CFR part 761). Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the

extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.36 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are persons who currently possess PCB items, PCB-contaminated equipment, or other PCB waste.

Estimated total number of potential respondents: 548,298.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 745,926 hours.

Estimated total annual costs: $34,581,690. This includes an estimated burden cost of $34,581,690 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no change in the total estimated respondent burden (745,926 hours) from that currently in the OMB inventory. The changes in the total annual respondent reporting and recordkeeping costs are due to updates to the most current wage rate data. The up-to-date wage rates and the change from the previous ICR are as follows:

- Manager—new rate, $77.86; prior rate; $77.81; (less than 1 percent) percent increase).
- Clerical—new rate, $37.76; prior rate, $30.36 (24 percent increase).
- Professional/technical—new rate, $78.33; prior rate, $64.55 (21 percent increase).

IV. What is the next step in the process for this ICR?

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 pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 19, 2018.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2018–18530 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-Docket #OW–2018–0270; FRL–9982–88–OW]

Announcement of the Per- and Polyfluoroalkyl Substances (PFAS) Heartland Community Engagement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of an event.

SUMMARY: The Environmental Protection Agency (EPA) will host a Per- and Polyfluoroalkyl Substances (PFAS) Heartland Community Engagement in Leavenworth, Kansas. The goal of the event is to allow the EPA to hear directly from the EPA's Region VII communities to understand ways the Agency can best support the work that is being done at the state, tribal, and local level to address PFAS in the environment. For more information on the event, visit the EPA's PFAS website: *https://www.epa.gov/pfas/pfas-community-engagement.* During the recent PFAS National Leadership Summit, the EPA announced plans to visit communities to hear directly from those impacted by PFAS. These engagements are the next step in the EPA's commitment to address challenges with PFAS. The EPA anticipates that the community engagements will provide valuable insight for the Agency's efforts moving forward. For more information, go to the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The event will be held on September 5, 2018. The meeting is scheduled from 1 p.m. to 7:15 p.m., central time. The working session will begin at 1 p.m., with the listening session to follow, starting at 3:30 p.m., central time.

ADDRESSES: The event will be held at the Riverfront Community Center, 123 S Esplanade Street, Leavenworth, Kansas 66048. If you are unable to attend the Heartland Community Engagement, you will be able to submit comments at *http://www.regulations.gov:* enter Docket ID No. EPA–OW–2018–0270. Citizens, including those that attend and provide oral statements, are encouraged to send written statements to the public docket. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Amy Shields, USEPA Region 7, 11201 Renner Blvd. (Mail Code ENST/IO), Lenexa, KS 66219; telephone number: 913–551–7396; email address: *shields.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Details about Participating in the Event: The public is invited to speak during the September 5 listening session. Those interested in speaking can sign up for a 3-minute speaking slot on the EPA's website at *https://www.epa.gov/pfas/pfas-community-engagement.* Please check this website for event materials as they become available, including a full agenda, leading up to the event.

The PFAS National Leadership Summit: On May 22–23, 2018, the EPA hosted the PFAS National Leadership Summit. During the summit, participants worked together to share information on ongoing efforts to characterize risks from PFAS. Participants presented their efforts to develop monitoring and treatment/cleanup techniques, identify specific near-term actions that are needed to address challenges currently facing states and local communities, and develop risk communication strategies that will help communities to address public concerns regarding PFAS.

The EPA wants to assure the public that their input is valuable and meaningful. Using information from the National Leadership Summit, public

docket, and community engagements, the EPA plans to develop a PFAS Management Plan for release later this year. A summary of the Heartland Community Engagement will be made available to the public following the event on the EPA's PFAS Community Engagement website at: *https://www.epa.gov/pfas/pfas-community-engagement*.

Dated: August 17, 2018.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2018–18521 Filed 8–24–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2018–N–09]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (Privacy Act), the Federal Housing Finance Agency (FHFA) gives notice of and requests comments on the proposed revisions to an existing system of records entitled ''Reasonable Accommodation Information System'' (FHFA–18). The revised system contains information regarding an individual who files a request for reasonable accommodation or personal assistance service, and will be newly named ''Reasonable Accommodation and Personal Assistance Services Information System.''

DATES: To be assured of consideration, comments must be received on or before September 26, 2018. The revision to the system of records will become effective on September 26, 2018 without further notice unless comments necessitate otherwise. FHFA will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA identified by ''2018–N–09,'' using any one of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/No. 2018–N–09,'' in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/No. 2018–N–09, Federal Housing Finance Agency, 400 7th Street SW, Eighth Floor, Washington, DC 20219. The package should be delivered to the 7th Street entrance Guard Desk, First Floor, on business days between 9 a.m. to 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/No. 2018–N–09, Federal Housing Finance Agency, 400 7th Street SW, Eighth Floor, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal 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.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Stacy J. Easter, Privacy Act Officer, *privacy@fhfa.gov* or (202) 649–3803, or David A. Lee, Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3803 (not toll-free numbers), Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW, Eighth Floor, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revisions to the system of records and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing ''Comments/No. 2018–N–09,'' please reference ''Reasonable Accommodation and Personal Assistance Services Information System (FHFA–18).''

FHFA will make all comments timely received available for examination by the public through the electronic comment docket for this notice, which is located on the FHFA website at *http://www.fhfa.gov*. All comments received will be posted without change and will include any personal information you provide, such as name, address (mailing and email), telephone numbers, and any other information you provide.

II. Introduction

This notice informs the public of FHFA's proposed revisions to an existing system of records. This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when there is an addition or change to an agency's systems of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The Director of FHFA has determined that records and information in this system of records is not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016 (81 FR 94424 (Dec. 23, 2016)), prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the Office of Management and Budget, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. Revised Systems Of Records

The ''Reasonable Accommodation Information System'' (FHFA–18) system of records is being revised to change the system name, address new records that will be collected, update the system's purpose, add one new routine use, and make non-substantive edits. The system's new name will be ''Reasonable Accommodation and Personal Assistance Services Information System.'' The current purpose of the system is to collect and maintain records from individuals who request a reasonable accommodation. FHFA is proposing to expand the purpose of the system to include records collected and maintained from individuals who request personal assistance services. The revised routine use updates the language for the disclosure of records

necessary to respond to a breach. The added routine uses address the disclosure of records to the U.S. Department of Agriculture for purposes of procuring assistive technologies and services through the Technology & Accessible Resources Give Employment Today Center in response to a request for reasonable accommodation, as well as, the disclosure of records that may reasonably be needed by another agency in responding to a breach.

The revised system of records notice is set out in its entirety and described in detail below.

SYSTEM NAME AND NUMBER:

Reasonable Accommodation and Personal Assistance Services Information System (FHFA–18).

SECURITY CLASSIFICATION:

No Classified Information.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or individuals assisting such employees.

SYSTEM MANAGER(S):

Office of Human Resources Management, Employee Relations and Benefits, Senior Human Resources Specialist, (202) 649–3807, Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219 and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Rehabilitation Act of 1973 (29 U.S.C. 791); 29 CFR part 1630; Executive Orders 13163, 13164 and 13548; Equal Employment Opportunity Commission (EEOC) Policy Guidance on Executive Order 13164; and EEOC Enforcement Guidance: Application of the American with Disabilities Act (ADA) to Contingent Workers Placed by Temporary Agencies and Other Staffing Firms.

PURPOSE(S) OF THE SYSTEM:

The purpose of the System is to allow FHFA to collect and maintain records on applicants for employment, employees (including former employees), and others who request a reasonable accommodation under sections 501, 504, and 701 of the Rehabilitation Act of 1973 and under the ADA Amendments of 2008, and employees who request or receive personal assistance services under Section 501, as amended, of the Rehabilitation Act. In addition, the purpose of the System is to track and report to appropriate entities the processing of requests for reasonable accommodation and personal assistance service to ensure compliance with applicable laws and regulations, and to preserve and maintain the confidentiality of medical information. Information in this System will be used to evaluate, approve, deny, and/or implement a request for reasonable accommodation or personal assistance service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment, employees (current and former), and any other individuals who request or receive a reasonable accommodation under sections 501, 504, and 701 of the Rehabilitation Act of 1973 and under the ADA Amendments of 2008, and employees who request or receive personal assistance services under Section 501, as amended, of the Rehabilitation Act. This also includes authorized individuals or representatives (*e.g.,* family member or attorney) who file requests for reasonable accommodation on behalf of an applicant for employment, or who file requests for reasonable accommodations or personal assistance services on behalf of an employee, or other individual, as well as former employees who requested or received reasonable accommodations or personal assistance services during their employment with FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include requester's name, contact information (*i.e.,* address, telephone number, email address and any other information provided), or other unique identifier; requester's authorized representative's name and contact information (*i.e.,* address, telephone number, email address and any other information provided); requester's status (*i.e.,* applicant, employee, or other); request date; job(s) (occupational series, grade level, and agency component) for which a reasonable accommodation or personal assistance service had been requested; other reasons for requesting a reasonable accommodation or personal assistance service; information concerning the nature of any disability and the need for accommodation or assistance; appropriate medical or other documentation provided in support of the request; details of a reasonable accommodation or personal assistance service request to include: type(s) of accommodation or assistance requested; whether the accommodation requested was pre-employment or during employment, or for some other reason; whether the assistance requested was during employment; how the requested accommodation would assist the individual in applying for a job, how the requested accommodation or assistance would assist the individual in performing current job functions, or meeting some other need/requirement; the amount of time taken to process the request; whether the request was granted or denied and, if denied, the reason for the denial; and the sources of any assistance consulted in trying to identify possible reasonable accommodations or providing personal assistance services.

RECORD SOURCE CATEGORIES:

Information is provided by applicants for employment, employees, other individuals requesting a reasonable accommodation or personal assistance service, and/or their authorized representatives, as well as individuals who are responsible for processing such requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To appropriate agencies, entities, and person when (1) FHFA suspects or has confirmed that there has been a breach of the system of records; (2) FHFA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the

responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To consultants, contractor personnel, entities, vendors or suppliers, employees of other government agencies, whether federal, state or local, as necessary to make a decision on a request for accommodation or to implement the decision.

(9) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(10) To another Federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation or personal assistance service issues, when that agency or commission has jurisdiction over reasonable accommodation or personal assistance service.

(11) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, or Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation or personal assistance service.

(12) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

(13) To the Department of Defense for purposes of procuring assistive technologies and services through the Computer/Electronic Accommodation Program in response to a request for reasonable accommodation.

(14) To the U.S. Department of Agriculture for purposes of procuring assistive technologies and services through the Technology & Accessible Resources Give Employment Today Center in response to a request for reasonable accommodation.

(15) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA
2. Any employee of FHFA in his/her official capacity;
3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(16) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(17) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(18) To another Federal agency or Federal entity, when FHFA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, or some other unique identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules (GRS), GRS 2.3.20 and FHFA Comprehensive Records Schedule, Item 5.3 Human Resources Records. Disposal is by shredding or other appropriate disposal system.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RECORD ACCESS PROCEDURES:

Direct requests for access to a record to the Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse determination for a record to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

NOTIFICATION PROCEDURES:

Direct inquiries as whether this system contains a record pertaining to an individual to the Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The Reasonable Accommodation Information System (FHFA–18) system of records was last published in the **Federal Register** on August 9, 2012 (77 FR 47641, 47646).

Dated: August 21, 2018.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2018–18411 Filed 8–24–18; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to implement a new information collection, the Report of Institution-to-Aggregate Granular Data on Assets and Liabilities on an Immediate Counterparty Basis (FR 2510)(OMB No. 7100-to be assigned).

DATES: Comments must be submitted on or before October 26, 2018.

ADDRESSES: You may submit comments, identified by *FR 2510,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal prior to giving final approval.

Proposal under OMB delegated authority to implement the following report:

Report title: Report of Institution-to-Aggregate Granular Data on Assets and Liabilities on an Immediate Counterparty Basis.

Agency form number: FR 2510.

OMB control number: 7100-to be assigned.

Frequency: Quarterly, beginning with the reporting period ending on March 31, 2019.

Reporters: Bank holding companies headquartered in the United States that are global systemically important bank holding companies (U.S. G–SIBs) under the Board's rules.

Estimated annual reporting hours: One-time implementation: 8,000 hours; ongoing: 18,176 hours.

Estimated average hours per response: One-time implementation: 1,000 hours; ongoing: 568 hours.

Number of respondents: 8

General description of report: The proposed FR 2510 would collect granular exposure data on the assets, liabilities, and off-balance sheet holdings of U.S. G–SIBS, providing

breakdowns by instrument, currency, maturity, and sector. The FR 2510 would also collect data covering detailed positions for the top 35 countries of exposure, broken out by instrument and counterparty sector, with limited further break outs by remaining maturity, subject to a $2 billion minimum threshold for country exposure, on an immediate-counterparty basis, as reported in the consolidated Country Exposure Report of the Federal Financial Institutions Examination Council (FFIEC 009). Further, the report would collect information on financial derivatives by instrument type and foreign exchange derivatives by currency. The FR 2510 supports a more complete balance sheet analysis with richer details regarding common or correlated exposures and funding dependencies by providing more information about U.S. G–SIBs' consolidated exposures and funding positions to different countries according to instrument, counterparty sector, currency, and remaining maturity.

Proposed Information Collection: The proposed FR 2510 would implement in the U.S. an internationally-agreed common data template for G–SIBs (global I–A template) designed to facilitate the aggregation and analysis of consistent and comparable data from G–SIBs based in different jurisdictions. The FR 2510 would consist of three schedules that each U.S. G–SIB would submit quarterly. The schedules would include consolidated balance sheet information about the U.S. G–SIB, including the G–SIB's foreign country exposures, broken out by instrument, currency, remaining maturity, counterparty country, and counterparty sector. The FR 2510 also would capture information on notional and fair-value amounts for financial derivatives and foreign exchange derivatives across underlying instruments and currencies.

In implementing this internationally-agreed template for U.S. G–SIBs, the FR 2510 is intended to build on, and complement, two existing data collections: the FFIEC 009 and the Consolidated Financial Statements for Holding Companies (FR Y 9C). Relative to the FFIEC 009 and FR Y–9C, the FR 2510 would provide significantly more detail regarding the balance sheet and derivatives exposures of U.S. G–SIBs. This information would facilitate supervisory monitoring and analysis of common or correlated exposures and funding dependencies across G–SIBs. In doing so, the FR 2510 (together with corresponding collections in other jurisdictions) would provide valuable systemic information to supervisors and policymakers and a heightened focus on improving firms' ability to aggregate and report their exposures and positions in a consistent, timely, and accurate manner.

The proposed data collection has been developed in cooperation with the Financial Stability Board (FSB). Implementation is being coordinated with respective host-country jurisdictions for non-U.S. G–SIBs under the aegis of the Multilateral Framework, a memorandum of understanding that governs the provision and reporting of confidential G–SIB data under tight security to the International Data Hub (IDH) hosted by the Bank for International Settlements (BIS). Through this mechanism, data collected via the FR 2510 would be gathered and transmitted securely to the IDH. These data would be combined by the IDH with corresponding data from other jurisdictions, and would be used by the IDH to produce analytical reports that would provide unique and authoritative aggregation and comparison of these banks' positions.

For example, from a supervisory perspective, IDH reports would provide important comparative information across G–SIBs, detailed information on G–SIB exposures to central counterparties (CCPs) and fuller information than is otherwise available on how foreign banking organizations (FBOs) fund their U.S. operations. From a financial stability perspective, IDH reports help to reveal risks associated with key common counterparties (*e.g.,* sovereign exposures) among G–SIBs, and illuminate volumes and patterns by which non-U.S. G–SIBs manage their dollar-based funding (and which in turn can have implications for dollar-based funding markets). The global I–A template would enhance that value by providing, for example, more detail on potential currency and maturity mismatches between assets and funding at the G–SIBs, which in turn could reveal emerging risk management needs at the individual institutions as well as the extent to which a crisis in a given currency might propagate through bank balance sheets.

The global I–A template, which the FR 2510 would implement for U.S. G–SIBs, thus facilitates the compilation of consistent and comparable data from G–SIBs based in different jurisdictions. This template (and thus the FR 2510) was developed as a more detailed extension of, and complement to, existing aggregate data collections conducted by the BIS from national regulatory authorities for use in its Consolidated Banking Statistics (CBS). In the United States, these existing aggregated data are based on information collected using the FFIEC 009. The Board presently transmits data it collects through the FFIEC 009 at the consolidated bank holding company level from the U.S. G–SIBs to the IDH. The proposal would expand this existing process to encompass a larger set of more granular data items.

As noted, the FFIEC 009 and FR Y–9C regulatory reports provide limited information about the foreign exposures and foreign exchange risk of U.S. banking organizations. The FFIEC 009 requires certain banks, savings associations, bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies of foreign banks to report aggregate foreign exposure information on both an immediate-counterparty basis (on the basis of the country of residence of the borrower) and ultimate-risk basis (on the basis of the country of residence of any guarantor or collateral). The information reported on the FFIEC 009 is broken out by counterparty [1] type, country, and sector, but without detailed information on the category of financial instrument. Rather, the information reported on the FFIEC 009 represents a respondent's aggregate exposure to all counterparties of a particular type in a jurisdiction, regardless of the form of the exposure. In addition, the FFIEC 009 only collects liabilities of respondents' foreign domiciled offices and subsidiaries. The FR Y–9C requires bank holding companies to report more detailed balance sheet information than the FFIEC 009; however, the data reported on the FR Y 9C includes only limited break-outs of data by maturity and no break-outs of data by currency.

The proposed FR 2510 represents significant simplifications compared to the previous draft versions shared with the industry (in 2012, 2013, 2014, and 2015), including the removal of certain highly granular criteria that resulted in empty or not meaningful data. These revisions reflect lessons learned from the study itself, as well as feedback on costs and challenges received from the reporting G–SIBs, including through an industry meeting held in May 2015, and on expected benefits provided by potential users in July 2015.

[1] The instructions to the FFIEC 009 state that ''[t]he obligor on an immediate-counterparty basis is the entity that issued the security or otherwise incurred the liability. The obligor of a claim on an ultimate-risk basis is any person, business, institution, or instrument that provides any of the types of credit protection described in Section II.F, 'Required Risk Transfers' and Section II.H 'Reporting Credit Derivatives.' ''

Data collected in the FR 2510 would facilitate the aggregation and analysis of data from G–SIBs based in different jurisdictions. Key examples of tangible near-term products that the Federal Reserve, other U.S. supervisors, and the IDH would be able to produce with the data from the FR 2510 include:

- Aggregate and comparative reports across G–SIBs showing potential currency or maturity imbalances covering the full balance sheet (except derivatives);
- An assessment of G–SIBs' funding needs; and
- An assessment of the concentration at the country, sector, or instrument level.

Such products would provide significant value, both for supervision of U.S. G–SIBs and for broader analysis of the global financial system.

Detailed Discussion of Proposed FR 2510 Report

Relative to existing data sources, the FR 2510 report would support a more complete balance-sheet analysis of common or correlated exposures and funding dependencies by providing more information about reporting banking organizations' consolidated exposures to, and funding positions with, different countries according to instrument, counterparty sector, currency, and remaining maturity. The FR 2510 would be used in conjunction with other regulatory and statistical reports. Definitions and structure of the FR 2510, to the extent possible, have been aligned for U.S. implementation with these other U.S. regulatory and statistical reports to minimize reporting burden on U.S. respondents and to maximize analytical consistency with existing U.S. reports. These other reports include the FFIEC 009, the FR Y–9C, the Banking Organization Systemic Risk Report (FR Y–15), the Complex Institution Liquidity Monitoring Report (FR 2052a), and the Semiannual Report of Derivatives Activity (FR 2436).

The FR 2510 would be comprised of three schedules that would give a full view of the reporting banking organization's operations and risks. An overview of the proposed information that would be collected in these three schedules is provided below.

(1) The I–A Immediate Counterparty Schedule

The I–A Immediate Counterparty schedule (I–A IC) would be the report's main schedule. This draft schedule would capture information on banking organizations' asset positions, liability positions, and contingent liabilities on a combination of the following five dimensions:

(1) Instrument,
(2) Currency,
(3) Remaining maturity,
(4) Counterparty country, and
(5) Counterparty sector.

The I–A IC positions are allocated to the country and sector where the immediate counterparty resides. Immediate-counterparty positions would be reported in Tables 1 and 2. Table 1 is a consolidated balance sheet of the granular portfolio with total positions broken out by the following seven different currencies:

(1) U.S. Dollar,
(2) Euro,
(3) Japanese Yen,
(4) British Pound,
(5) Swiss Franc,
(6) Yuan Renminbi, and
(7) Other currencies.

The currencies would be broken out into four remaining maturity categories, as follows:

(1) Non-maturity instruments,
(2) Overnight to less than three months,
(3) 3 months to less than 1 year, and
(4) 1 year and over.

Table 2 would be a consolidated balance sheet showing I–A exposures by instrument and counterparty sector to countries above the de minimis threshold of $2 billion, with banking organizations completing a table for each country above the threshold, with total positions by counterparty sector and by remaining maturity. At the time the global I–A template was developed, it was estimated that these de mimimis rules would nonetheless cover 97 percent of total claims extended to counterparties in 79 countries (based on BIS CBS). Maximum coverage would be provided for advanced economies (99 percent), while lower percentages would result for Africa and Middle East (65 percent) and Emerging Europe (85 percent).

Positions would be reported along the following counterparty sectors:

(1) Banks,
(2) Non-bank financial institutions,
(3) Non-financial corporations,
(4) Households,
(5) Government, and
(6) Unallocated by sector.

Positions would be broken out into the following three remaining maturity categories:

(1) Non-maturity instruments,
(2) Less than 1 year, and
(3) 1 year and over.

(2) Financial Derivatives Schedule

The Financial Derivatives schedule would capture details on the gross fair-value (mark-to-market) and notional amounts of financial derivatives broken out according to certain subcategories of derivative instruments. Information regarding gross fair values (mark-to-market) and notional amounts would facilitate cross-country comparisons and overcome substantially different offset requirements for derivatives between the accounting standards applied by reporting banking organizations. Derivatives would be reported along the following three categories:

(1) Exchange-traded derivatives,
(2) Centrally cleared over-the-counter (OTC) derivatives, and
(3) Bilateral/uncleared OTC derivatives. Derivatives are reported according to the following six categories of risk:

(1) Equity derivatives,
(2) Interest rate derivatives,
(3) Foreign exchange derivatives,
(4) Credit derivatives,
(5) Commodity derivatives, and
(6) Other derivatives.

(3) Foreign Exchange Derivatives Schedule

The Foreign Exchange Derivatives schedule would capture gross notional currency derivative positions (separated into short and long positions) for a limited number of foreign exchange derivatives, with details on remaining maturity and currency, but no detail concerning counterparty country and sector. The scope of foreign exchange derivatives would include the following:

(1) Currency forwards,
(2) Foreign exchange swaps,
(3) Currency swaps, and
(4) Cross-currency interest rate swaps.

For each derivative type, the contract's remaining maturity would be broken out into the following maturity buckets:

(1) Non-maturity instruments (on-demand and open positions),
(2) Overnight to less than 3 months,
(3) 3 months to less than 1 year, and
(4) 1 year and over.

Legal authorization and confidentiality: The information collection is authorized under section 5 of the Bank Holding Company Act (12 U.S.C. 1844). The information collected in the FR 2510 would be collected as part of the Board's supervisory process, and therefore may be afforded confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically

disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Determinations of confidentiality based on exemption 4 of FOIA would be made on a case-by-case basis.

Consultation Outside the Agency: The Federal Reserve consulted with the Office of the Comptroller of the Currency as well as with potential respondent institutions in developing this proposed report. Several outreach meetings took place to help refine the data items in the proposed schedules and clarify the accompanying instructions.

Board of Governors of the Federal Reserve System, August 21, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–18430 Filed 8–24–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on the agency's shared enforcement with the Consumer Financial Protection Bureau (''CFPB'') of the information collection requirements in subpart N of the CFPB's Regulation V (''Rule''). That clearance expires on November 30, 2018.

DATES: Comments must be received on or before October 26, 2018.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/regulationVsubpartNpra* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), 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 J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Ryan Mehm, Attorney, Bureau of Consumer Protection, (202) 326–2918, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Proposed Information Collection Activities

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. ''Collection of information'' means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for FTC's portion of the estimated burden for the information collection requirements associated with the CFPB's subpart N of Regulation V, 12 CFR 1022.130–1022.138 (OMB Control Number 3084–0128).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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. All comments must be received on or before October 26, 2018.

I. Overview of the Rule

The FTC shares enforcement authority with the CFPB for subpart N of Regulation V.[1] Subpart N requires nationwide consumer reporting agencies and nationwide consumer specialty reporting agencies to provide to consumers, upon request, one free file disclosure within any 12-month period. Generally, it requires the nationwide consumer reporting agencies, as defined in Section 603(p) of the Fair Credit Reporting Act (''FCRA''), 15 U.S.C. 1681a(p), to create and operate a centralized source that provides consumers with the ability to request their free annual file disclosures from each of the nationwide consumer reporting agencies through a centralized internet website, toll-free telephone number, and postal address. Subpart N also requires the nationwide consumer reporting agencies to establish a standardized form for internet and mail requests for annual file disclosures, and provides a model standardized form that may be used to comply with that requirement. It additionally requires nationwide specialty consumer reporting agencies, as defined in Section 603(w) of the FCRA, 15 U.S.C. 1681a(w), to establish a streamlined process for consumers to request annual file disclosures. This streamlined process must include a toll-free telephone number for consumers to make such requests.

II. Burden Statement

Because the FTC shares enforcement authority with the CFPB for subpart N, the two agencies split between them the related estimate of PRA burden for firms under their co-enforcement jurisdiction. Estimated PRA burden, excluding the halving (to be shown at the conclusion of this analysis), are as follows:

A. Requests per Year From Consumers for Free Annual File Disclosures

The Consumer Data Industry Association estimated that in 2011, the nationwide consumer reporting agencies provided approximately 30 million free annual file disclosures through the centralized internet website, toll-free telephone number, and postal address required to be established by the FACT Act and subpart N.[2] When it last sought clearance renewal for the Rule, the FTC had been unable to obtain, through public comment or otherwise, updated information on request volume. As a proxy, it then assumed a volume of 35 million requests per year. We expect that the number of requests for free annual credit reports will rise over the

[1] Subpart N sets forth the former FTC's Free Annual File Disclosures Rule that appeared under 16 CFR parts 610 and 698. Rulemaking authority for this and several other FCRA rules was transferred to the CFBP under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). Title X comprises sections 1001–100H (collectively, the ''Consumer Financial Protection Act of 2010'').

[2] See Consumer Financial Protection Bureau Report to Congress, *The Impact of Differences Between Consumer- and Creditor-Purchased Credit Scores,* at 9 (July 19, 2011), *available at https://files.consumerfinance.gov/f/2011/07/Report_20110719_CreditScores.pdf.*

next three years because of increases in the population and consumer awareness that they are entitled to a free annual report. As a proxy, we are now estimating 38 million requests per year as a representative average year to estimate PRA burden for purposes of the instant analysis.

The Commission, however, seeks more recent estimates of the number of requests consumers are making for free annual credit reports. In addition to data on the number of requests, data on how the number of requests has changed over time, and how these requests are being received—by internet, phone, or by mail—would be most helpful.

B. Annual File Disclosures Provided Through the Internet

Both nationwide and nationwide specialty consumer reporting agencies will likely handle the overwhelming majority of consumer requests through internet websites. The annual file disclosure requests processed through the internet will not impose any hours burden per request on the nationwide and nationwide specialty consumer reporting agencies. However, consumer reporting agencies periodically will be required to adjust the internet capacity needed to handle the changing request volume. Consumer reporting agencies likely will make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Trained personnel will need to spend time negotiating and renegotiating such contracts. Commission staff estimates that negotiating such contracts will require a cumulative total of 8,320 hours and $598,957 in labor costs.[3] Such activity is treated as an annual burden of maintaining and adjusting the changing internet capacity requirements.

C. Annual File Disclosures Requested Over the Telephone

Most of the telephone requests for annual file disclosures will also be handled in an automated fashion, without any additional personnel needed to process the requests. As with the internet, consumer reporting agencies will require additional time and investment to increase and administer the automated telephone capacity for the expected increase in request volume. The nationwide and nationwide specialty consumer reporting agencies will likely make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Staff estimates that this will require a total of 6,240 hours at a cost of $449,218 in labor costs.[4] This activity also is treated as an annual recurring burden necessary to obtain, maintain, and adjust automated call center capacity.

D. Annual File Disclosures Requiring Processing by Mail

Based on their knowledge of the industry, staff believes that no more than 1% of consumers (1% × 38 million, or 380,000) will request an annual file disclosure through U.S. postal service mail. Staff estimates that clerical personnel will require 10 minutes per request to handle these requests, thereby totaling 63,333 hours of time. [(380,000 × 10 minutes)/60 minutes per hour = 63,333 hours]

In addition, whenever the requesting consumer cannot be identified using an automated method (a website or automated telephone service), it will be necessary to redirect that consumer to send identifying material along with the request by mail. Staff estimates that this will occur in about 5% of the new requests (or 1,881,000)[5] that were originally placed over the internet or telephone. Staff estimates that clerical personnel will require approximately 10 minutes per request to input and process those redirected requests for a cumulative total of 313,500 clerical hours. [(1,881,000 × 10 minutes)/60 minutes per hour = 313,500 hours]

E. Instructions to Consumers

The Rule also requires that certain instructions be provided to consumers. *See* Rule sections 1022.136(b)(2)(iv)(A–B), 1022.137(a)(2)(iii)(A–B). Minimal associated time or cost is involved, however. Internet instructions to consumers are embedded in the centralized source website and do not require additional time or cost for the nationwide consumer reporting agencies. Similarly, for telephone requests, the automated phone systems provide the requisite instructions when consumers select certain options. Some consumers who request their credit reports by mail might additionally request printed instructions from the nationwide and nationwide specialty consumer reporting agencies. Staff estimates that there will be a total of 2,261,000 requests each year for free annual file disclosures by mail.[6] Based on their knowledge of the industry, staff estimates that, of the predicted 2,261,000 mail requests, 10% (or 226,100) will request instructions by mail. If printed instructions are sent to each of these consumers by mail, requiring 10 minutes of clerical time per consumer, this will total 37,683 hours. [(226,100 instructions × 10 minutes)/60 minutes per hour].

F. Labor Costs

Labor costs are derived by applying hourly cost figures to the burden hours described above. Staff anticipates that processing of requests for annual file disclosures and instructions will be performed by clerical personnel, and estimates that the processing will require 414,516 hours at a cost of $7,444,707. [(63,333 hours for handling initial mail request + 313,500 hours for handling requests redirected to mail + 37,683 hours for handling instructions mailed to consumers) × $17.96 per hour.[7]]

As elaborated on above, staff estimates that a total of 14,560 labor hours will be needed to negotiate or renegotiate outsourced service contracts annually (or as conditions otherwise change) to increase internet (8,320 hours) and telephone (6,240 hours) capacity requirements for internet web services and the automated telephone call center. This will result in approximately $1,048,174 per year in labor costs. [14,560 hours × $71.99 per hour[8]]

Thus, estimated cumulative labor will costs are $8,492,881.

G. Capital/Non-Labor Costs

As in the previous PRA clearance analysis, FTC staff believes it is likely

[3] Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately 4 full-time equivalent employees (''FTE'') for the web service contracts. Thus, staff estimates that administering the contract will require 4 FTE, which is 8,320 hours per year (4 FTE × 2,080 hours/year). The cost is based on the reported May 2017 Bureau of Labor Statistics (BLS) rate ($71.99) for computer and information systems managers. *See Occupational Employment and Wages—May 2017,* Table 1, *available at https://www.bls.gov/news.release/ocwage.t01.htm.* Thus, the estimated setup and maintenance cost for an internet system is $598,957 per year (8,320 hours × $71.99/hour).

[4] Staff estimates that recurring contracting for automated telephone capacity will require approximately 3 FTE, a total of 6,240 hours (3 × 2,080 hours). Applying an hourly wage rate of $71.99 (*see* supra note 3), estimated setup and maintenance cost is $449,218 (6,240 × $71.99) per year.

[5] This figure reflects five percent of all requests, net of the estimated one percent of all requests that might initially be made by mail. That is, 0.05 × (38,000,000 − 380,000) = 1,881,000.

[6] This figure includes both the estimated 1% of 38 million requests that will be made by mail each year (380,000), and the estimated 1,881,000 requests initially made over the internet or telephone that will be redirected to the mail process (see *supra* note 5).

[7] *See Occupational Employment and Wages—May 2017,* Table 1, *available at https://www.bls.gov/news.release/ocwage.t01.htm* (Office and administrative support workers, general).

[8] *See supra* notes 3 and 4.

that consumer reporting agencies will use third-party contractors (instead of their own employees) to increase the capacity of their systems. Because of the way these contracts are typically established, these costs will likely be incurred on a continuing basis, and will be calculated based on the number of requests handled by the systems. Staff estimates that the total annual amount to be paid for services delivered under these contracts is $13,919,400.[9]

H. Net Burden for FTC, After 50:50 Split

After halving the updated estimates to split the PRA burden with the CFPB regarding the Rule, the FTC's burden totals are 214,538 hours, $4,246,441 in associated labor costs, and $6,959,700 in non-labor/capital costs.

Request for Comments

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before October 26, 2018. Write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments*. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/regulationVsubpartNpra* by following the instructions on the web based form. If this Notice appears at *https://www.regulations.gov,* you also may file a comment through that website.

If you file your comment on paper, write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), 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 J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the Commission website at *https://www.ftc.gov* to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 26, 2018. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *https://www.ftc.gov/site-information/privacy-policy*.

Heather Hippsley,

Acting Principal Deputy General Counsel.

[FR Doc. 2018–18448 Filed 8–24–18; 8:45 am]

BILLING CODE 6750–01–P

[9] This consists of an estimated $9,302,400 for automated telephone cost ($1.36 per request × 6.84 million requests) and an estimated $4,617,000 ($0.15 per request × 30.78 million requests) for internet web service cost. Per unit cost estimates are based on staff's knowledge of the industry.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substance and Disease Registry

[60Day–18–18AUZ; Docket No. ATSDR–2018–0008]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Human Health Effects of Drinking Water Exposures to Per- and Polyfluoroalkyl Substances (PFAS) at Pease International Tradeport, Portsmouth, NH (The Pease Study).'' The purpose of this research is to use sound study methods to see if drinking water exposure to PFAS is related to health outcomes in this New Hampshire community.

DATES: ATSDR must receive written comments on or before October 26, 2018.

ADDRESSES: You may submit comments, identified by Docket No. ATSDR–2018–0008 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and

Docket Number. ATSDR will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffery M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Human Health Effects of Drinking Water Exposures to Per- and Polyfluoroalkyl Substances (PFAS) at Pease International Tradeport, Portsmouth, NH (The Pease Study)—NEW—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

Per- and polyfluoroalkyl substances (PFAS) are a family of environmentally and biologically persistent chemicals used in industrial applications such as aqueous film-forming foam (AFFF), used to extinguish flammable liquid fires. Since the 1970s, military bases in the U.S. have used AFFF with PFAS constituents for firefighting training as well as to extinguish fires. At some military bases, AFFF use has resulted in the migration of PFAS chemicals through soils to ground water and/or surface water sources of drinking water for bases and/or surrounding communities. In 2016, the U.S. Environmental Protection Agency (USEPA) issued a lifetime health advisory level of 0.07 total micrograms of perfluorooctanoate (PFOA) and perfluorooctane sulfonate (PFOS) combined per liter of drinking water (μg/L). In response to growing awareness of the extent of PFAS contamination across the U.S., Section 8006 of the Consolidated Appropriations Act, 2018, authorized the Agency for Toxic Substances and Disease Registry (ATSDR) to conduct a study on the human health effects of PFAS contamination in drinking water.

In response, ATSDR is requesting a three-year Paperwork Reduction Act (PRA) clearance for the Pease Study, which will serve as a proof-of-concept model for a national multi-site study of PFAS health effects. The existence of a large body of state and local environmental monitoring and population blood testing data makes the Pease community in Portsmouth, NH, particularly suitable as ATSDR's initial PFAS research study site. From approximately 1970 until 1991, the Air Force used AFFF for firefighting and training at Pease Air Force Base. The base closed in 1991, and was converted to a large business and aviation industrial park in 1993, the Pease International Tradeport. In 2014, PFAS drinking water concentrations were detected (0.35 μg/L PFOA and 2.4 μg/L PFOS) at levels well above what was to become the USEPA lifetime health advisory level (0.07 μg/L PFOA/PFOS). In 2015–7, the New Hampshire Department of Health and Human Services (NH DHHS) offered a PFAS blood testing program to the community. The blood testing program showed that the Pease population had concentrations of some types of PFAS that were two to three times higher than national estimates.

The Pease Study will be cross-sectional in design, drawing from a convenience sample of people with and without exposure to PFAS-contaminated drinking water from Pease. The main goals of the study are to: (1) Evaluate the study procedures and methods to identify any issues that need to be addressed before embarking on a national multi-site study; and (2) examine associations between health outcomes and measured and historically reconstructed serum levels of PFAS. ATSDR will examine the association between PFAS compounds and lipids, renal function and kidney disease, thyroid hormones and disease, liver function and disease, glycemic parameters and diabetes, as well as immune response and function in both children and adults. In addition, ATSDR will investigate if PFAS is related to differences in sex hormones and sexual maturation, vaccine response, and neurobehavioral outcomes in children. In adults, additional outcomes of interest include cardiovascular disease, osteoarthritis, osteoporosis, endometriosis, and autoimmune disease. Adults will be 18 years or older, and children will be 4–17 years of age at enrollment.

In total, ATSDR seeks to enroll 1,625 participants (1,100 adults and 525 children and their parents). Annualized estimates are 542 participants (367 adults and 175 children).

For the exposure group (n=1,350), ATSDR will enroll 1,000 adults and 350 children. Annualized estimates are 450 exposed participants (333 adults and 117 children). Eligible participants had to work at, live on, or attend childcare at the former Pease Air Force Base or the Pease International Tradeport, or live in a nearby home that was served by a PFAS-contaminated private well. Drinking water exposures must have occurred at some time between 2004 and May 2014, after which remediation of the public water supply occurred.

For the referent group (n=275), ATSDR will enroll 100 adults and 175 children. Annualized estimates are 92 referent participants (34 adults and 58 children). Eligible participants, never exposed to PFAS-contaminated drinking water from Pease, will come from other areas of Portsmouth, NH. Birth mothers of referent children likewise must never have had PFAS drinking water exposure.

ATSDR will recruit, screen for eligibility, and enroll in three waves. The exposure group will be recruited in Waves One and Two. ATSDR estimates that 90% of the exposure group will be

enrolled in Wave 1 (n=1,215, or 405 per year), that is, will be past participants of the 2015–7 NH DHHS PFAS blood testing program. NH DHHS will assist ATSDR by sending out letters of invitation to its former blood testing program participants. To achieve the desired sample size, the other 10 percent of the exposure group (n=135, or 45 per year) will be recruited in Wave 2. These will be people who were eligible for the PFAS blood testing program but did not take part. The referent group will be recruited in Wave Three (n=275, or 92 per year), which can occur concurrently with Wave 1 and Wave 2. Wave 2 and Wave 3 recruits will call to volunteer after ATSDR opens those waves to enrollment.

To restrict this study to drinking water exposures, any adult occupationally exposed to PFAS will not be eligible for the study (*i.e.* ever firefighters or in chemical manufacture). Likewise, children whose birth mothers were occupationally exposed will not be eligible. This restriction applies to both the exposure and the referent group. ATSDR assumes that 5% of the people who volunteer will not meet eligibility requirements. ATSDR will screen the 1,578 people from the NH DHHS PFAS blood testing program in Wave One (n=526 per year). ATSDR will screen at least 142 exposed people in Wave 2 (or 47 per year), and at least 289 unexposed people in Wave 3 (or 96 per year). This will require an annual time burden of 124 hours for eligibility screening.

At enrollment, ATSDR will obtain adult consent, parental permission, and child assent before data collection begins. Each child will enroll with a parent, who ideally will be the child's birth mother, as ATSDR will ask details about the child's exposure, pregnancy, and breastfeeding history.

For each participant, ATSDR will take body measures, collect blood and urine samples for chemical and biomarker analysis, and administer a questionnaire on exposures and medical history. For purposes of burden estimation, ATSDR assumes that 20% of parents will also enroll as adults; therefore, 420 parents will take the child questionnaire long form (n=140 per year), while 105 parents will take the short form to reduce burden (n=35 per year). Parents and children will also complete assessments of the child's attention and behaviors. After eligibility screening, the annual time burden for participation in the study is 58 hours for adults and 208 hours for children and their parents.

ATSDR will ask for permission to compare adults' and children's medical histories with their medical records. ATSDR will also ask for permission to check children's school records to compare their behavioral assessment results. The annual time burden for medical and educational record abstraction is estimated to be 125 hours for adult records and 118 hours for children's records.

The total annualized time burden requested is 1,189 hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Pease Study Participants	Wave One Eligibility Screening Script	526	1	10/60	88
	Wave Two Eligibility Screening Script	47	1	15/60	12
	Wave Three Eligibility Screening Script	96	1	15/60	24
	Appointment Reminder Telephone Script	542	1	5/60	45
	Update Contact Information Hardcopy Form	542	1	5/60	45
	Medication List	542	1	3/60	27
	Body and Blood Pressure Measures Form	542	1	5/60	45
	Blood Draw and Urine Collection Form	542	1	10/60	90
	Adult Questionnaire	367	1	30/60	184
	Child Questionnaire—Long Form	140	1	30/60	70
	Child Questionnaire—Short Form	35	1	15/60	9
	Parent Neurobehavioral Test Battery	175	1	15/60	44
	Child Neurobehavioral Test Battery	175	1	90/60	263
Education Specialists	Child School Record Abstraction Form	15	12	20/60	60
Medical Record Specialists.	Medical Record Abstraction Form—Adult	25	15	20/60	125
	Medical Record Abstraction Form—Child	25	7	20/60	58
Total					1,189

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–18446 Filed 8–24–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2017–0104; Docket Number NIOSH–304]

Final National Occupational Research Agenda for Traumatic Injury Prevention

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of the final *National Occupational Research Agenda for Traumatic Injury Prevention.*

DATES: The final document was published on August 20, 2018 on the CDC website.

ADDRESSES: The document may be obtained at the following link: *https://*

www.cdc.gov/niosh/nora/crosssectors/ti/agenda.html.

FOR FURTHER INFORMATION CONTACT: Emily Novicki, M.A., M.P.H, (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: On December 7, 2017, NIOSH published a request for public review in the **Federal Register** [82 FR 57758] of the draft version of the *National Occupational Research Agenda for Traumatic Injury Prevention.* All comments received were reviewed and addressed where appropriate.

Dated: August 22, 2018.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–18514 Filed 8–24–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–1080]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled [HIV Outpatient Study (HOPS)*]* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on [September 26, 2017] to obtain comments from the public and affected agencies. CDC received [2] comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

HIV Outpatient Study (HOPS) (OMB Control Number 0920–1080, Expiration Date 08/31/2018)—REVISION—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention requests a three year approval for the HIV Outpatient Study data collection activity. The HIV Outpatient Study (HOPS) is a prospective longitudinal cohort of HIV-infected outpatients at eight well-established private HIV care practices and university-based U.S. clinics. Clinical data are abstracted on ongoing basis from the medical records of adult HIV-infected HOPS study participants, who also complete an optional seven minute telephone/web-based behavioral assessment as part of their annual clinic visit. Before enrolling in this study, all potential study participants will undergo an informed consent process (including signing of a written informed consent) which is estimated to take 15 minutes.

The core areas of HOPS research extending through the present HIV treatment era include (i) monitoring death rates and causes of death (ii) characterizing the optimal patient management strategies to reduce HIV-related morbidity and mortality (*e.g.,* effectiveness of antiretroviral therapies and other clinical interventions (iii) monitoring of sexual and drug use behaviors to inform Prevention with Positives, and (iv) investigating disparities in the HIV care continuum by various demographic factors. In recent years, the HOPS has been instrumental in bringing attention to emerging issues in chronic HIV infection with actionable opportunities for prevention, including: Cardiovascular disease, fragility fractures, renal and hepatic disease, and cancers. The HOPS remains an important source for multi-year trend data concerning conditions and behaviors for which data are not readily available elsewhere, including: Rates of opportunistic illnesses, rates of comorbid conditions (*e.g.,* hypertension, obesity, diabetes) and antiretroviral drug resistance.

Data will be collected through medical record abstraction by trained abstractors and by telephone or internet-based, computer-assisted interviews at eight funded study sites in six U.S. cities. Collection of data abstracted from patient medical records provides data in five general categories: Demographics and risk behaviors for HIV infection; symptoms; diagnosed conditions (definitive and presumptive); medications prescribed (including dose, duration, and reasons for stopping); all laboratory values, including CD4+ T-lymphocyte (CD4+) cell counts, plasma HIV–RNA determinations, and genotype, phenotype, and trophile results. Data on visit frequency, AIDS, and death are acquired from the clinic chart.

Data collected using a brief Telephone Audio-Computer Assisted Self-Interview (T–ACASI) survey or an identical web-based Audio-Computer Assisted Self-Interview (ACASI) include: age, sex at birth, use of alcohol and drugs, cigarette smoking, adherence to antiretroviral medications, types of sexual intercourse, condom use, and disclosure of HIV status to partners.

We estimate consenting 450 new participants per year across all HOPS study sites (50 participants at each of the eight sites). The consent process takes approximately 15 minutes to complete. Medical record abstractions will be completed on all eligible participants. All eligible participants will be offered the opportunity to participate in an optional short survey that will take approximately seven minutes. Participation of respondents is voluntary. There is no cost to the

respondents other than their time. The estimated annual burden hours are 405.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
HOPS study Patients	Behavioral survey (att 3a,b,9)	2,500	1	7/60
HOPS Study Patients	Consent form (att 4)	450	1	15/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–18445 Filed 8–24–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10137 and CMS–10237]

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 October 26, 2018.

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' website 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.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–1326.

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**).

CMS–10137 Solicitation for Applications for Medicare Prescription Drug Plan 2020 Contracts

CMS–10237 Medicare Advantage Application—Part C and 1876 Cost Plan Expansion Application Regulations under 42 CFR 422 (Subpart K) & 417.400

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:* Solicitation for Applications for Medicare Prescription Drug Plan 2020 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and

Modernization Act of 2003 (MMA) in Subpart 3. The application requirements are codified in Subpart K of 42 CFR 423 entitled ''Application Procedures and Contracts with PDP Sponsors.'' The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, Program of All Inclusive Care for the Elderly (PACE), and EGWP applicants. The collected information will be used by CMS to: (1) Ensure that applicants meet CMS requirements for offering Part D plans (including network adequacy, contracting requirements, and compliance program requirements, as described in the application), (2) support the determination of contract awards. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 243; *Total Annual Responses:* 256; *Total Annual Hours:* 2,351.08. (For policy questions regarding this collection contact Arianne Spaccarelli, at 410–786–5715.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage Application—Part C and 1876 Cost Plan Expansion Application Regulations under 42 CFR 422 (Subpart K) & 417.400; *Use:* The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) Public Law 108–173 established the Medicare Prescription Drug Benefit Program (Part D) and made revisions to the provisions of Medicare Part C, governing what is now called the Medicare Advantage (MA) program (formerly Medicare+Choice). The MMA directed that important aspects of the new Medicare Prescription Drug Benefit Program under Part D be similar to and coordinated with regulations for the MA program. The MMA changes made managed care more accessible, efficient, and attractive to beneficiaries seeking options to meet their needs.

This information collection includes the process for organizations wishing to provide healthcare services under MA plans. These organizations must complete an application annually (if required), file a bid, and receive final approval from CMS. The MA application process has two options for applicants that include (1) request for new MA product or (2) request for expanding the service area of an existing product. CMS utilizes the application process as the means to review, assess and determine if applicants are compliant with the current requirements for participation in the MA program and to make a decision related to contract award. This collection process is the only mechanism for organizations to complete the required MA application process. CMS will collect and review information under the solicitation of Part C applications for the various health plan product types described in the Background section above. CMS will use the information to determine whether the applicants meet the requirements to become an MA organization and are qualified to provide a particular type of MA plan. The application process is open to all health plans that want to participate in the MA program. The application is distinct and separate from the bid process, and CMS issues a determination on the application prior to bid submissions, or before the first Monday in June. *Form Number:* CMS–10137 (OMB control number: 0938–0935); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 380; *Total Annual Responses:* 400; *Total Annual Hours:* 6,106. (For policy questions regarding this collection contact Keith Penn-Jones, at 410–786–3104.)

Dated: August 22, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–18523 Filed 8–24–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10416 and CMS–10540]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

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 (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 a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate 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 on the collection(s) of information must be received by the OMB desk officer by *September 26, 2018*.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*.

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' website 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*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. 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 (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-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 that summarizes the following proposed collection(s) of information for public comment:

Information Collection

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Blueprint for Approval of State-Based Health Insurance Exchanges; *Use:* All States (including the 50 States, the Territories, and the District of Columbia herein referred to as States) have the opportunity under Section 1311(b) of the Affordable Care Act to establish Exchanges, subject to certification (or ''Approval'') that the Exchange meets Federal standards and will be able to offer health care coverage for the following plan year, beginning January 1, 2014. The original information collection request for the State Exchange Blueprint Data Collection Tool specified a single reporting tool for all the various exchange types and was partially paper based. Subsequent revisions simplified the tool by having separate collection tools for each type of exchange and on-line implementation of the tool to reduce the burden. This revision updates the tool to reflect current State Exchange model options (a State-based Exchange (SBE) or a State-based Exchange on the Federal Platform (SBE–FP,)) program requirements, updated regulatory requirements promulgated through the 2017, 2018 and the 2019 Payment Notice, as well as through the Marketplace Stabilization Rule, and replaces the requirement for document and evidence submissions with attestations across all sections to further reduce the burden.

Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, federal requirements, and goals of the statute.

States seeking to establish a SBE or SBE–FP must build an Exchange that meets the requirements set out in Section 1311(d) of the Affordable Care Act and pursuant to CFR 155.105, FFE states that seek to operate an SBE or SBE–FP must complete and submit an Exchange Blueprint Application. The Blueprint Application documents that an Exchange will meet the legal and operational requirements associated with the Exchange model a state chooses to pursue. As part of its Blueprint submission, a state will also agree to demonstrating operational readiness to implement and execute the required Exchange activities described in the Blueprint Application. *Form Number:* CMS–10416 (OMB control number: 0938–1172); *Frequency:* Once; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 21; *Total Annual Responses:* 7; *Total Annual Hours:* 221. (For policy questions regarding this collection contact Christy Woods at 301–492–5140.)

2. *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* Quality Improvement Strategy Implementation Plan and Progress Form. *Use:* Section 1311(c)(1)(E) of the Patient Protection and Affordable Care Act requires qualified health plans (QHPs) offered through an Exchange must implement a quality improvement strategy (QIS) as described in section 1311(g)(1). Section 1311(g)(3) of the Patient Protection and Affordable Care Act specifies the guidelines under Section 1311(g)(2) shall require the periodic reporting to the applicable Exchange the activities that a qualified health plan has conducted to implement a strategy as described in section 1311(g)(1). CMS intends to have eligible QHP issuers complete the QIS Implementation Plan and Progress Form annually for initial certification and subsequent annual updates of progress in implementation of their strategy. The form will include topics to assess an issuer's compliance in creating a payment structure that provides increased reimbursement or other incentives to improve the health outcomes of plan enrollees, prevent hospital readmissions, improve patient safety and reduce medical errors, promote wellness and health, and reduce health and health care disparities, as described in Section 1311(g)(1) of the Patient Protection and Affordable Care Act.

The QIS Implementation Plan and Progress Form will allow: (1) The Department of Health & Human Services (HHS) to evaluate the compliance and adequacy of QHP issuers' quality improvement efforts, as required by Section 1311(c) of the Patient Protection and Affordable Care Act, and (2) HHS will use the issuers' validated information to evaluate the issuers' quality improvement strategies for compliance with the requirements of Section 1311(g) of the Patient Protection and Affordable Care Act. *Form Number:* CMS–10540 (OMB Control Number: 0938–1286); *Frequency:* Annually; *Affected Public:* Public sector (Individuals and Households), Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 250; *Total Annual Responses:* 250; *Total Annual Hours:* 12,000. (For policy questions regarding this collection contact Nidhi Singh Shah at 301–492–5110).

Dated: August 21, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–18437 Filed 8–24–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Administration for Native Americans Annual Data Report.

OMB No.: 0970–0475: Renewal.

Description: The Administration for Native Americans is seeking renewal of the Annual Data Report (ADR). The ADR is an annual report to be completed at the end of every budget period of an ANA discretionary grant. The purpose of this information collection is to annually collect grantee data on outcome indicators, youth and elder engagement, partnerships, community participation, benefits and lessons learned. At the end of the project period, ANA will also collect data on beneficiaries, the overall achievement of the project goal, and project sustainability.

This information collection will be housed in the On-Line Data Collection (OLDC) with in *GrantSolutions.gov.*

Respondents: Tribal Government, Native non-profit organizations, Tribal Colleges & Universities receiving ANA discretionary funding.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ADR	275	1	1	275

Estimated Total Annual Burden Hours: 275.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV;* Attn: Desk Officer for the Administration for Children and Families.

Robert A. Sargis,

Reports Clearance Officer.

[FR Doc. 2018–18495 Filed 8–24–18; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that a meeting is scheduled to be held for the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council). The meeting will be open to the public; a public comment session will be held during the meeting. Pre-registration is required for members of the public who wish to attend the meeting and who wish to participate in the public comment session. Individuals who wish to attend the meeting and/or send in their public comment via email should send an email to *CARB@hhs.gov*. Registration information is available on the website *http://www.hhs.gov/ash/carb/* and must be completed by September 19, 2018; all in-person attendees must pre-register by this date. Additional information about registering for the meeting and providing public comment can be obtained at *http://www.hhs.gov/ash/carb/* on the Meetings page.

DATES: The meeting is scheduled to be held on September 26, 2018, from 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the website for the Advisory Council at *http://www.hhs.gov/ash/carb/* when this information becomes available. Pre-registration for attending the meeting in person is required to be completed no later than September 19, 2018; public attendance at the meeting is limited to the available space.

ADDRESSES: This public meeting is being held at the Sheraton Columbus Hotel at Capitol Square, 75 East State Street, Columbus, OH, 43215. The meeting can also be accessed through a live webcast on the day of the meeting. For more information, visit *http://www.hhs.gov/ash/carb/*.

FOR FURTHER INFORMATION CONTACT: Jomana Musmar, Acting Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room 715H, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. Phone: (202) 690–5566; email: *CARB@hhs.gov*.

SUPPLEMENTARY INFORMATION: Under Executive Order 13676, dated September 18, 2014, authority was given to the Secretary of HHS to establish the Advisory Council, in consultation with the Secretaries of Defense and Agriculture. Activities of the Advisory Council are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

The Advisory Council will provide advice, information, and recommendations to the Secretary of HHS regarding programs and policies intended to support and evaluate the implementation of Executive Order 13676, including the National Strategy for Combating Antibiotic-Resistant Bacteria and the National Action Plan for Combating Antibiotic-Resistant Bacteria. The Advisory Council shall function solely for advisory purposes.

In carrying out its mission, the Advisory Council will provide advice, information, and recommendations to the Secretary regarding programs and policies intended to preserve the effectiveness of antibiotics by optimizing their use; advance research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthen surveillance of antibiotic-resistant bacterial infections; prevent the transmission of antibiotic-resistant bacterial infections; advance the development of rapid point-of-care and agricultural diagnostics; further research on new treatments for bacterial infections; develop alternatives to antibiotics for agricultural purposes; maximize the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal healthcare providers; and improve international coordination of efforts to combat antibiotic resistance.

The September 26, 2018, public meeting will be dedicated to the Advisory Council's deliberation and vote of the Infection Prevention and Stewardship Working Group's draft report with recommendations, in addition to other topic areas surrounding antibiotic-resistance and One Health. The meeting agenda will be posted on the Advisory Council website at *http://www.hhs.gov/ash/carb/* when it has been finalized. All agenda items are tentative and subject to change.

Public attendance at the meeting is limited to the available space. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Advisory Council at the

address/telephone number listed above at least one week prior to the meeting. For those unable to attend in person, a live webcast will be available. More information on registration and accessing the webcast can be found at *http://www.hhs.gov/ash/carb/*.

Members of the public will have the opportunity to provide comments prior to the Advisory Council meeting by emailing *CARB@hhs.gov*. Public comments should be sent in by midnight September 19, 2018, and should be limited to no more than one page. All public comments received prior to September 19, 2018, will be provided to Advisory Council members; comments are limited to two minutes per speaker.

Dated: August 21, 2018.

Jomana F. Musmar,

Acting Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria Committee Manager.

[FR Doc. 2018–18483 Filed 8–24–18; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE III.

Date: September 19–20, 2018.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Wlodek Lopaczynski, M.D., Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W514, Bethesda, MD 20892–9750, 240–276–6340, *lopacw@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP 4 for Provocative Questions.

Date: September 21, 2018.

Time: 7:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Bethesda, MD 20892–9750, 240–276–6343, *schweinfestcw@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1 for Provocative Questions.

Date: October 4, 2018.

Time: 7:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotel Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Bethesda, MD 20892–9750, 240–276–5122, *hasan.siddiqui@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–3 for Provocative Questions.

Date: October 9, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Traceback Testing: Identification and Genetic Counseling of Mutation Carriers (U01).

Date: October 10, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Bethesda, MD 20892–9750, 240–276–5007, *tandlea@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–5 for Provocative Questions.

Date: October 18–19, 2018.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Bethesda, MD 20892–9750, 240–276–7755, *byeong-chel.lee@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1 NCI Clinical and Translational R21 and Omnibus R03.

Date: October 25, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W242, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Zhiqiang Zou, M.D., Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Bethesda, MD 20892–9750, 240–276–6372, *zouzhiq@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI U01 Review: Integrating Biospecimens into Clinical Assay Development.

Date: November 15, 2018.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W116, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892–9750, 240–276–7849, *klaus.piontek@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 20, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–18399 Filed 8–24–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: September 20, 2018.

Open: 9:00 a.m. to 12:20 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Closed: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Jean G. Noronha, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367, *jnoronha@mail.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 20, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–18398 Filed 8–24–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Clinical Trials to Test the Effectiveness of Treatment, Preventive, and Services Interventions (R01).

Date: September 17, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Clinical Trials—Pharma/Device and K Awards.

Date: October 2, 2018.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–7861, *dsommers@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 20, 2018.

Melanie J. Pantoja,

Program Analyst Office of Federal Advisory Committee Policy.

[FR Doc. 2018–18401 Filed 8–24–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Cancellation; Notice of Meeting

Notice is hereby given of the cancellation of the National Cancer Institute Special Emphasis Panel, November 01, 2018, 11:00 a.m. to November 01, 2018, 2:00 p.m., National Cancer Institute Shady Grove, Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on August 7, 2018, 83 FR 38710.

This meeting has been cancelled. The applications have been assigned to another meeting for review.

Dated: August 20, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–18400 Filed 8–24–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2626–18; DHS Docket No. USCIS–2013–0006]

RIN 1615–ZB77

Extension of the Designation of Somalia for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Somalia for Temporary Protected Status (TPS) for 18 months, from September 18, 2018, through March 17, 2020. The extension allows currently eligible TPS beneficiaries to retain TPS through March 17, 2020, so long as they otherwise continue to meet the eligibility requirements for TPS.

This Notice also sets forth procedures necessary for nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) to re-register for TPS and to apply for Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). USCIS will issue new EADs with a March 17, 2020 expiration date to eligible Somalia TPS beneficiaries who timely re-register and apply for EADs under this extension.

DATES: *Extension of Designation of Somalia for TPS:* The 18-month extension of the TPS designation of Somalia is effective September 18, 2018, and will remain in effect through March 17, 2020. The 60-day re-registration period runs from August 27, 2018 through October 26, 2018. (**Note:** It is important for re-registrants to timely re-register during this 60-day period and not to wait until their EADs expire.)

FOR FURTHER INFORMATION CONTACT:

- You may contact Samantha Deshommes, Branch Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, 20 Massachusetts Avenue NW, Washington, DC 20529–2060; or by phone at 800–375–5283.
- For further information on TPS, including guidance on the re-registration process and additional information on eligibility, please visit the USCIS TPS web page at *http://www.uscis.gov/tps*. You can find specific information about this extension of Somalia's TPS designation by selecting ''Somalia'' from the menu on the left side of the TPS web page.
- If you have additional questions about Temporary Protected Status, please visit *uscis.gov/tools*. Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283.
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
FR—Federal Register
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
IER—U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Through this Notice, DHS sets forth procedures necessary for eligible nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) to re-register for TPS and to apply for renewal of their EADs with USCIS. Re-registration is limited to persons who have previously registered for TPS under the designation of Somalia and whose applications have been granted.

For individuals who have already been granted TPS under Somalia's designation, the 60-day re-registration period runs from August 27, 2018 through October 26, 2018. USCIS will issue new EADs with a March 17, 2020 expiration date to eligible Somali TPS beneficiaries who timely re-register and apply for EADs. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on September 17, 2018. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of EADs issued under the TPS designation of Somalia for 180 days, through March 16, 2019. Additionally, individuals who have EADs with an expiration date of March 17, 2017, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension. These individuals may show their EAD indicating a March 17, 2017, expiration date and their EAD application receipt (Notice of Action, Form I–797C) that notes the application was received on or after January 17, 2017, to employers as proof of continued employment authorization through March 16, 2019. This Notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification, and E-Verify processes.

Individuals who have a Somalia TPS Form I–821 and/or Form I–765 that was still pending as of August 27, 2018 do not need to file either application again. If the TPS application is approved, the individual will be granted TPS through March 17, 2020. Similarly, if a pending TPS-related application for an EAD is approved, it will be valid through the same date. There are approximately 500 current beneficiaries under Somalia's TPS designation.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).

- When the Secretary terminates a country's TPS designation, beneficiaries return to one of the following:
  - ○ The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - ○ Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

When was Somalia designated for TPS?

Somalia was initially designated on September 16, 1991, on the basis of extraordinary and temporary conditions in Somalia that prevented nationals of Somalia from safely returning. *See Designation of Nationals of Somalia for Temporary Protected Status, 56 FR 46804 (Sept. 16, 1991).* Somalia's designation for TPS has been consecutively extended since its initial designation in 1991. Additionally, Somalia was newly designated for TPS in 2001, again based on extraordinary and temporary conditions. *See Extension and Redesignation of Somalia under Temporary Protected Status Program, 66 FR 46288 (Sept. 4, 2001).* In 2012, Somalia was again newly designated for TPS on the basis of extraordinary and temporary conditions and under the additional basis of ongoing armed conflict. *See Extension and Redesignation of Somalia for Temporary Protected Status, 77 FR 25723 (May 1, 2012).* Somalia's 2012 TPS designation was subsequently extended in 2013, 2015, and, most recently, January 2017. *See Extension of the Designation of Somalia for Temporary Protected Status, 82 FR 4905 (Jan. 17, 2017).*

What authority does the Secretary have to extend the designation of Somalia for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government (Government), to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in the foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary does not determine that the foreign state no longer meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for Somalia through March 17, 2020?

DHS has reviewed conditions in Somalia. Based on the review, including input received from other U.S. Government agencies, the Secretary has determined that an 18-month extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions supporting Somalia's TPS designation persist.

Somalia's security situation remains fragile and volatile, with ongoing armed conflict among government forces, clan militias, African Union Mission in Somalia (AMISOM) troops, and al-Shabaab. Somalia continues to experience one of the largest humanitarian crises in the world. An estimated 5.4 million Somalis (out of a total population of approximately 12.3 million) are in need of assistance. Although more than 118,000 refugees have returned to Somalia since 2014, new conflict patterns, drought, and flooding have driven over 819,000 people to flee to neighboring countries as of May 31, 2018.

Civilians continue to be threatened by violence in Somalia. From January 2016–October 2017, at least 2,078 civilians were killed by armed groups. Al-Shabaab continues to wage an armed insurgency against the Federal Government of Somalia (FGS). The group has reasserted its territorial reach across substantial territory in southern Somalia from which it continues to launch coordinated mass attacks on Somali and AMISOM military bases. Somalia's Puntland region is home to a splinter group of Al-Shabaab that has sworn allegiance to the self-described Islamic State (IS). This group has carried out a number of suicide bombings, assassinations, and small arms attacks in Puntland in the past year.

Parts of Somalia remained trapped in unresolved inter-clan conflicts. Clan and government-aligned militias continue to carry out extrajudicial killings, extortion, arbitrary arrests, and rape of civilians. Clan tensions are typically exacerbated in times of drought when massive numbers of people and livestock move across traditional clan ''boundaries'' in search of water and pasture. In particular, a series of clashes in north-central Somalia in the last two years has triggered the displacement of 75,000 to 100,000 civilians.

Over 2.1 million Somalis are internally displaced—nearly double from the 2012 TPS designation. Forced evictions increased in 2017, with over 200,000 reported evictions, according to the United Nations. Forced evictions continue in 2018, undermining humanitarian efforts to assist Somalia's internally displaced populations.

Decades of insecurity have devastated Somalia's physical infrastructure. Humanitarian agencies cite the need for the rehabilitation of crucial infrastructure, including airstrips, roads, and ports.

Somalia has experienced some recent economic gains, with gross domestic product (GDP) slightly improving each of the past three years. Despite modest improvements, Somalia is among the poorest countries in the world.

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that:

- The conditions supporting Somalia's designation for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in Somalia and, due to such conflict, requiring the return of Somali nationals (or aliens having no nationality who last habitually resided in Somalia) to Somalia would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in Somalia that prevent Somali nationals (or aliens having no nationality who last habitually resided in Somalia) from returning to Somalia in safety, and it is not contrary to the national interest of the United States to permit Somali TPS

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

beneficiaries to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).

- The designation of Somalia for TPS should be extended for an 18-month period, from September 18, 2018 through March 17, 2020. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).

Notice of Extension of the TPS Designation of Somalia

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, the conditions supporting Somalia's designation for TPS continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing designation of TPS for Somalia for 18 months, from September 18, 2018, through March 17, 2020. *See* INA section 244(b)(1)(A), (b)(1)(C); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C).

Kirstjen M. Nielsen,

Secretary.

Required Application Forms and Application Fees To Re-Register for TPS

To re-register for TPS based on the designation of Somalia, you *must* submit an Application for Temporary Protected Status (Form I–821). You do not need to pay the filing fee for the Form I–821. *See* 8 CFR 244.17. You may be required to pay the biometric services fee. Please see additional information under the ''Biometric Services Fee'' section of this Notice.

Through operation of this **Federal Register** notice, your existing EAD issued under the TPS designation of Somalia with the expiration date of September 17, 2018, is automatically extended for 180 days, through March 16, 2019. However, if you want to obtain a new EAD valid through March 17, 2020, you must file an Application for Employment Authorization (Form I–765) and pay the Form I–765 fee (or request a fee waiver). If you do not want a new EAD, you do not have to file Form I–765 or pay the Form I–765 fee. If you do not want to request a new EAD now, you may also file Form I–765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

Additionally, individuals who have EADs with an expiration date of March 17, 2017, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension through March 16, 2019. You do not need to apply for a new EAD in order to benefit from this 180-day automatic extension. If you have a Form I–821 and/or Form I–765 that was still pending as of August 27, 2018, then you do not need to file either application again. If your pending TPS application is approved, you will be granted TPS through March 17, 2020. Similarly, if you have a pending TPS-related application for an EAD that is approved, it will be valid through the same date.

You may file the application for a new EAD either prior to or after your current EAD has expired. However, you are strongly encouraged to file your application for a new EAD as early as possible to avoid gaps in the validity of your employment authorization documentation and to ensure that you receive your new EAD by March 16, 2019.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *http://www.uscis.gov/tps*. Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may complete a Form I–912 or submit a personal letter requesting a fee waiver, with satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS website at *http://www.uscis.gov*. If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometrics screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *www.dhs.gov/privacy*.

Refiling a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request

You should file as soon as possible within the 60-day re-registration period so USCIS can process your application and issue any EAD promptly. Properly filing early will also allow you to have time to refile your application before the deadline, should USCIS deny your fee waiver request. If, however, you receive a denial of your fee waiver request and are unable to refile by the re-registration deadline, you may still refile your Form I–821 with the biometrics fee. This situation will be reviewed to determine whether you established good cause for late TPS re-registration. However, you are urged to refile within 45 days of the date on any USCIS fee waiver denial notice, if possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS web page at *http://www.uscis.gov/tps*. Following denial of your fee waiver request, you may also refile your Form I–765 with fee either with your Form I–821 or at a later time, if you choose.

Note: Although re-registering TPS beneficiaries age 14 and older must pay the biometric services fee (but not the Form I–821 fee) when filing a TPS re-registration application, you may decide to wait to request an EAD. Therefore, you do not have to file the Form I–765 or pay the associated Form I–765 fee (or request a fee waiver) at the time of re-registration, and could wait to seek an EAD until after USCIS has approved your TPS re-registration application. If you choose to do this, to re-register for TPS you would only need to file the Form I–821 with the biometrics services fee, if applicable, (or request a fee waiver).

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If you would like to send your application by:	Then, mail your application to:
U.S. Postal Service ...	U.S. Citizenship and Immigration Services, Attn: TPS Somalia, P.O. Box 6943, Chicago, IL 60680–6943.
A non-U.S. Postal Service courier.	U.S. Citizenship and Immigration Services, Attn: TPS Somalia, 131 S. Dearborn Street, 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate mailing address in Table 1. When re-registering and requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application.

This will help us to verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at *www.uscis.gov/tps* under ''Somalia.''

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To get case status information about your TPS application, including the status of an EAD request, you can check Case Status Online at *http://www.uscis.gov,* or call the USCIS National Contact Center at 800–375–5283 (TTY 800–767–1833). If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov*. However, we strongly encourage you first to check Case Status Online or call the USCIS National Contact Center for assistance before making an InfoPass appointment.

Am I eligible to receive an automatic 180-day extension of my current EAD through March 16, 2019, using this ***Federal Register*** *notice?*

Yes. Provided that you currently have a Somalia TPS-based EAD, this **Federal Register** notice automatically extends your EAD through March 16, 2019, if you:

- Are a national of Somalia (or an alien having no nationality who last habitually resided in Somalia); and either
- Have an EAD with a marked expiration date of September 17, 2018, bearing the notation A–12 or C–19 on the face of the card under Category, or
- Have an EAD with a marked expiration date of March 17, 2017, bearing the notation A–12 or C–19 on the face of the card under Category and you applied for a new EAD during the last re-registration period but have not yet received a new EAD.

Although this **Federal Register** notice automatically extends your EAD through March 16, 2019, you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Form I–9. Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization), or one document from List B (which provides evidence of your identity) together with one document from List C (which is evidence of employment authorization), or you may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional detailed information about Form I–9 on USCIS' I–9 Central web page at *http://www.uscis.gov/I-9Central*.

An EAD is an acceptable document under List A. If your EAD has an expiration date of September 17, 2018, or March 17, 2017 (and you applied for a new EAD during the last re-registration period but have not yet received a new EAD), and states A–12 or C–19 under Category, it has been extended automatically by virtue of this **Federal Register** notice and you may choose to present this Notice along with your EAD to your employer as proof of identity and employment eligibility for Form I–9 through March 16, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. If you have an EAD with a marked expiration date of September 17, 2018, that states A–12 or C–19 under Category, and you properly filed for a new EAD in accordance with this Notice, you will also receive Form I–797C, Notice of Action that will state your EAD is automatically extended for 180 days. You may choose to present your EAD to your employer together with this Form I–797C as a List A document that provides evidence of your identity and employment authorization for Form I–9 through March 16, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. See the subsection titled, ''How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?'' for further information.

To reduce confusion over this extension at the time of hire, you should explain to your employer that your EAD has been automatically extended through March 16, 2019. You may also provide your employer with a copy of this **Federal Register** notice, which explains that your EAD has been automatically extended. As an alternative to presenting evidence of your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I present to my employer for Employment Eligibility Verification (Form I–9) if I am already employed but my current TPS-related EAD is set to expire?

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization no later than before you start work on September 18, 2018. You will need to present your employer with evidence that you are still authorized to work. Once presented, you may correct your employment authorization expiration date in Section 1 and your employer should correct the EAD expiration date in Section 2 of Form I–9. See the subsection titled, ''What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?'' for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that your EAD has been automatically extended through March 16, 2019. Your employer may need to re-inspect your automatically extended EAD to check the expiration date and Category code if your employer did not keep a copy of this EAD when you initially presented it. In addition, if you have an EAD with a marked expiration date of September 17, 2018 that states A–12 or C–19 under Category, and you properly filed your Form I–765 to obtain a new EAD, you will receive a Form I–797C, Notice of Action. Form I–797C will state that your EAD is automatically extended for 180 days. You may present Form I–797C to your employer along with your EAD to confirm that the validity of your EAD has been automatically extended through March 16, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. To reduce the possibility of gaps in your

employment authorization documentation, you should file your Form I–765 to request a new EAD as early as possible during the re-registration period.

The last day of the automatic EAD extension is March 16, 2019. Before you start work on March 17, 2019, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 Instructions to reverify employment authorization.

By March 17, 2019, your employer must complete Section 3 of the current version of the form, Form I–9 07/17/17 N, and attach it to the previously completed Form I–9, if your original Form I–9 was a previous version. Your employer can check the USCIS' I–9 Central web page at *http://www.uscis.gov/I-9Central* for the most current version of Form I–9.

Note that your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

Can my employer require that I provide any other documentation to prove my status, such as proof of my Somali citizenship?

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I–9 ''Lists of Acceptable Documents'' that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Somali citizenship or proof of re-registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If presented with EADs that have been automatically extended, employers should accept such documents as a valid List A document so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the Note to Employees section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Employment Eligibility Verification (Form I–9) using my automatically extended employment authorization for a new job?

When using an automatically extended EAD to complete Form I–9 for a new job before March 17, 2019, you and your employer should do the following:

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter March 16, 2019 as the ''expiration date''; and

b. Enter your Alien Number/USCIS number or A–Number where indicated (your EAD or other document from DHS will have your USCIS number or A–Number printed on it; the USCIS number is the same as your A–Number without the A prefix).

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a September 17, 2018, expiration date (or March 17, 2017 expiration date provided your employee applied for a new EAD during the last re-registration period but has not yet received a new EAD);

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write March 16, 2019, as the expiration date.

Before the start of work on March 17, 2019, employers must reverify the employee's employment authorization in Section 3 of Form I–9.

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. You may, and your employer should, correct your previously completed Form I–9 as follows:

1. For Section 1, you may:

a. Draw a line through the expiration date in Section 1;

b. Write March 16, 2019, above the previous date; and

c. Initial and date the correction in the margin of Section 1.

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring:

- It is in category A–12 or C–19; and
- Has a marked expiration date of September 17, 2018, or March 17, 2017, provided your employee applied for a new EAD during the last re-registration period but has not yet received a new EAD.

b. Draw a line through the expiration date written in Section 2;

c. Write March 16, 2019, above the previous date; and

d. Initial and date the correction in the Additional Information field in Section 2.

Note: This is not considered a reverification. Employers do not need to complete Section 3 until either the 180-day automatic extension has ended or the employee presents a new document to show continued employment authorization, whichever is sooner. By March 16, 2019, when the employee's automatically extended EAD has expired, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for these employees by providing the employee's Alien Registration number, USCIS number, and entering the receipt number as the document number on Form I–9 into the document number field in E-Verify.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

E-Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. The alert indicates that before this employee starts to work on March 17, 2019, you must reverify his or her employment authorization in Section 3 of Form I–9. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification

requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I9Central@dhs.gov*. Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) (formerly the Office of Special Counsel for Immigration-Related Unfair Employment Practices) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov*.

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov*. Calls are accepted in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Employment Eligibility Verification (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee's Form I–9 differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *https://www.justice.gov/ier* and on the USCIS and E-Verify websites at *https://www.uscis.gov/i-9-central* and *https://www.e-verify.gov*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples of such documents are:

(1) Your current EAD;

(2) A copy of your Notice of Action (Form I–797C), the notice of receipt, for your application to renew your current EAD providing an automatic extension of your currently expired or expiring EAD;

(3) A copy of your Notice of Action (Form I–797C), the notice of receipt, for your Application for Temporary Protected Status for this re-registration; and

(4) A copy of your Notice of Action (Form I–797), the notice of approval, for a past or current Application for Temporary Protected Status, if you received one from USCIS. Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the ''Check Your Case'' button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found on the SAVE website at *http://www.uscis.gov/save*.

[FR Doc. 2018–18444 Filed 8–24–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7002–N–10]

60-Day Notice of Proposed Information Collection: Neighborhood Stabilization Program 2 Reporting NSP2

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 26, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400

(this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Njeri Santana, CPD Specialist, Office of Entitlement Communities Division. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Njeri Santana at *Njeri.Santana@hud.gov* or telephone 202–402–3269. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Neighborhood Stabilization Program 2 Reporting (NSP2).

OMB Approval Number: 2506–0185.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

This information describes the reporting and recordkeeping requirements of the Neighborhood Stabilization Program 2 (NSP2). The data required includes program level, project level and beneficiary level information collected and reported on by NSP2 grantees. The data identifies who benefits from the NSP2 program and how statutory requirement are satisfied. The respondents are State, local government, non-profit and consortium applicants.

Respondents (*i.e.,* affected public): NSP2 grantees are units of state and local governments, non-profits and consortium members.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Average Hours per Response: 4.

Total Estimated Burdens: 16,597.00.

NEIGHBORHOOD STABILIZATION PROGRAM

Description of information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
(Year 1)							
Online Quarterly Reporting via DRGR	56.00	4.00	224.00	4.00	896.00	$96.40	$86,374.40
DRGR voucher submissions	56.00	38.00	2128.00	0.18	383.04	4.00	1,532.16
Total Paperwork Burden	56.00	42.00	2352.00	N/A	16,597.00	N/A	87,906.56
(Year 2)							
Online Quarterly Reporting via DRGR	42.00	4.00	168.00	4.00	672.00	96.40	64,780.80
Quarterly Voucher Submissions	42.00	38.00	1596.00	0.18	287.28	4.00	1,149.12
Annual Reporting via DRGR/IDIS	14.00	1.00	14.00	3.00	42.00	72.30	3,036.60
Annual Income Certification Reporting	14.00	1.00	14.00	3.00	42.00	72.30	3,036.60
Total Paperwork Burden	N/A	44.00	1792.00	N/A	1043.28	NA	72,003.12
(Year 3)							
Online Quarterly Reporting via DRGR	22.00	4.00	88.00	4.00	352.00	96.40	33,932.80
Annual Reporting via DRGR/IDIS	34.00	1.00	34.00	4.00	136.00	96.40	13,110.40
Quarterly Voucher Submissions	22.00	4.00	88.00	0.18	15.84	4.34	68.74
Annual Income Certification Reporting	34.00	1.00	34.00	3.00	102.00	72.30	7,374.60
Total Paperwork Burden	N/A	10.00	244.00	N/A	606.00	NA	54,485.54

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 9, 2018.

Lori Michalski,

Acting General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2018–18515 Filed 8–24–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–46]

30-Day Notice of Proposed Information Collection: Community Development Block Grant-Disaster Recovery (CDBG–DR); 2 Year Expenditure Deadline Extension Request

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* September 26, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 26, 2018 at 83 FR 29814.

A. Overview of Information Collection

Title of Information Collection: CDBG–DR—2 Year Expenditure Deadline Extension Request.

OMB Approval Number: 2506–0206.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: This information collection is being conducted by CPD/Office of Block Grant Assistance to assist the Administrator of HUD in determining, as required by sec. 904(c) under Title IX of the Disaster Relief Appropriation Act, 2013 (Pub. L. 113–2), whether to grant extensions of the 24-month expenditure deadline for grantees receiving funds under the Act. The data will allow HUD to expeditiously review request for extensions of the deadline where a deadline puts recovery at risk.

Estimated Number of Respondents/ Estimated Number of Responses:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
2 Year Expenditure Deadline Waiver Request	25.00	1.00	25.00	4.00	100.00	$25.43	$2,543.00
Total	25.00	1.00	25.00	4.00	100.00	25.43	2,543.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 16, 2018.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–18516 Filed 8–24–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2018–N105; 91100–3740–GRNT 7C]

Announcement of Public Meetings: North American Wetlands Conservation Council; Neotropical Migratory Bird Conservation Advisory Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The North American Wetlands Conservation Council will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The Council will consider Canada, Mexico, and U.S. Standard grant proposals. The Advisory Group for the Neotropical Migratory Bird Conservation Act (NMBCA) grants program (Advisory Group) also will meet. The Advisory Group will discuss the strategic direction and management of the NMBCA program. Both meetings are open to the public, and interested persons may present oral or written statements.

DATES: *Council Meeting:* December 12, 2018, from 8:30 a.m. to 4:30 p.m. Eastern Daylight Saving Time. *Advisory Group Meeting:* December 11, 2018, from 8:30 a.m. to 4:30 p.m. Eastern Daylight Saving Time.

Participation: If you wish to participate in the meeting via calling in, making a presentation, or submitting information beforehand, contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than December 5, 2018.

ADDRESSES: *Meeting Location:* Both meetings will take place at the National

Fish and Wildlife Foundation, 1133 15th Street NW, Suite 1000, Washington, DC 20005. If you are interested in presenting information at the meeting or participating via telephone, contact the Council Coordinator by the date specified in **DATES**.

Submitting Information: Comments must be submitted by the date specified in **DATES** by one of the following methods:

- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041; or
- *Email: dbhc@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah Mott, Council/Advisory Group Coordinator, by phone at 703–358–1784; by email at *dbhc@fws.gov*; or by U.S. mail at U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 during normal business hours. Also, FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

About the Council

In accordance with the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended; NAWCA), the State-private-Federal North American Wetlands Conservation Council (Council) meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission. NAWCA provides matching grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico. These projects must involve long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats for the benefit of all wetlands-associated migratory birds. Project proposal due dates, application instructions, and eligibility requirements are available on the NAWCA website at *www.fws.gov/birds/grants/north-american-wetland-conservation-act.php*.

About the Advisory Group

In accordance with Neotropical Migratory Bird Conservation Act (Pub. L. 106–247, 114 Stat. 593, July 20, 2000; NMBCA), the Advisory Group will hold its meeting to discuss the strategic direction and management of the NMBCA program and provide advice to the Director of the Fish and Wildlife Service. NMBCA promotes long-term conservation of neotropical migratory birds and their habitats through a competitive grants program by promoting partnerships, encouraging local conservation efforts, and achieving habitat protection in 36 countries. The goals of NMBCA include perpetuating healthy bird populations, providing financial resources for bird conservation, and fostering international cooperation. Because the greatest need is south of the U.S. border, at least 75 percent of NMBCA funding supports projects outside the United States. Project proposal due dates, application instructions, and eligibility requirements are available on the NMBCA website at *http://www.fws.gov/birds/grants/neotropical-migratory-bird-conservation-act.php*.

Public Input

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions to be considered during the public meetings. If you wish to make information available to the Council or Advisory Group for their consideration prior to the meeting, you must contact the Council/Advisory Group Coordinator by the date in **DATES**. Written statements must be supplied to the Council/Advisory Group Coordinator in both of the following formats: one hard copy with original signature and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation at the meetings will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council/Advisory Group Coordinator, by the date specified above in **DATES**, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public speaker list for the meetings. Nonregistered public speakers will not be considered during the Council or Advisory Group meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, are invited to submit written statements to the Council or Advisory Group within 30 days following the meeting.

Meeting Minutes

Summary minutes of the Council and Advisory Group meetings will be maintained by the Council/Advisory Group Coordinator at the address under **FOR FURTHER INFORMATION CONTACT**. Meeting notes will be available by contacting the Council/Advisory Group Coordinator within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

Authority: We issue this notice under the authority of NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended).

Dated: August 21, 2018.

Jerome Ford,

Assistant Director, Migratory Bird Program.

[FR Doc. 2018–18461 Filed 8–24–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendments in the State of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The State of Oklahoma entered into compact amendments with the Quapaw Tribe of Oklahoma and the Sac and Fox Nation of Oklahoma governing certain forms of class III gaming; this notice announces the approval of the State of Oklahoma Gaming Compact Non-house-Banked Table Games Supplement between the State of Oklahoma and the Quapaw Tribe of Oklahoma and the Sac and Fox Nation.

DATES: The compact amendments take effect on August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts and

amendments are subject to review and approval by the Secretary. The compact amendments authorize the Tribes to engage in certain additional class III gaming activities, provide for the application of existing revenue sharing agreements to the additional forms of class III gaming, and designate how the State will distribute revenue sharing funds.

Dated: August 10, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–18425 Filed 8–24–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendments in the State of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The State of Oklahoma entered into compact amendments with the Otoe-Missouria Tribe of Indians, the Peoria Tribe of Oklahoma, and the Tonkawa Tribe of Oklahoma governing certain forms of class III gaming; this notice announces the approval of the State of Oklahoma Gaming Compact Non-house-Banked Table Games Supplement between the State of Oklahoma and the Otoe Missouria Tribe of Indians, the Peoria Tribe of Oklahoma, and the Tonkawa Tribe of Oklahoma.

DATES: The compact amendments take effect on August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The compact amendments authorize the Tribes to engage in certain additional class III gaming activities, provide for the application of existing revenue sharing agreements to the additional forms of class III gaming, and designate how the State will distribute revenue sharing funds.

Dated: August 10, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–18424 Filed 8–24–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB0000.L14400000.EU0000 241A; N–94266;17–08807; MO#4500112576; TAS: 17X]

Notice of Realty Action: Non-Competitive (Direct) Sale of Public Land in Esmeralda County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of 221.68 acres of public land in Esmeralda County, Nevada, to the Esmeralda County Board of Commissioners. The sale will resolve inadvertent unauthorized occupancy issues within the historic mining town site of Gold Point dating back to the late 1800's. The sale will be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA). The appraised fair market value (FMV) for the sale parcel is $82,000.

DATES: Interested parties may submit written comments regarding the sale and Environmental Assessment until October 11, 2018. The public land will not be offered for sale prior to October 26, 2018.

ADDRESSES: Mail written comments to the BLM, Tonopah Field Office, Field Manager, 1553 South Main Street, P.O. Box 911, Tonopah, NV 89049.

FOR FURTHER INFORMATION CONTACT: Wendy Seley by email: *wseley@blm.gov,* or by telephone: 775–482–7805. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The historic Gold Point town site was a gold and silver mining camp known as Lime Point dating back to 1868, and later around 1908, as Hornsilver. The following public lands are involved in the sale:

Mount Diablo Meridian, Nevada

T. 7 S., R. 41½ E.,
Sec. 3, Lot 5, Lot 6, SE¼NW¼, N½NE¼SW¼, SW¼NE¼SW¼, W½SE¼SW¼, SE¼SE¼SW¼, and SW¼SW¼SE¼;
Sec. 10, N½NW¼NW¼NE¼, N½NE¼NE¼NW¼, NW¼NE¼NW¼, and N½NW¼NW¼.

The area described contains 221.68 acres.

Upon publication of this Notice in the **Federal Register**, the public land will segregate from all forms of appropriation under the public land laws, including the mining laws, and from operation under the mineral leasing and geothermal leasing laws except for the sale provisions of FLPMA. Upon publication of this Notice and until completion of the sale, the BLM will no longer accept new land use applications affecting the identified public lands. The BLM will manage existing land use authorizations, or previously filed applications for land use, in accordance with 43 CFR 2807.15 and 2886.15. The segregation effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on August 27, 2020, unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

FLPMA, Section 203(a)(3) and 43 CFR 2710.0–3(a)(2), allows disposal of public land that will serve important public objectives, including expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands, and which outweigh other public objectives and values.

In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a), a direct sale may be appropriate to resolve inadvertent, unauthorized occupancy of the land or to protect existing equities in the land. The sale, if completed, would protect the existing improvements and resolve inadvertent unauthorized use and occupancy. The parcel is not suitable for management by other Federal agencies and is not required for any other Federal purpose.

The BLM may sell a tract of public land identified for disposal in an approved land use plan and meets the disposal criteria, as identified in FLPMA. The BLM Tonopah Resource Management Plan (RMP), Appendix 14, pages A–46 through A–49; dated October 2, 1997 designates the public land in question as suitable for disposal. The proposed action is consistent with

objectives of the RMP to allow disposal of public land for community expansion and private economic development and to increase the potential for economic diversity.

The BLM has prepared Environmental Assessment (EA) DOI–BLM–NV–B020–2017–0017–EA for the proposed sale. The comment period on the EA will end concurrently with the close of the comment period associated with this Notice of Realty Action. The EA, Environmental Site Assessment, Mineral Potential Report, Mineral Evaluation Report, map, and approved appraisal report are available to review at the Tonopah Field Office at the address in the **ADDRESSES** section.

In order to determine the Fair Market Value (FMV) through appraisal, an appraiser may make certain extraordinary assumptions and hypothetical conditions concerning the attributes and limitations of the land, potential effects of local regulations, and policies on potential future land uses. Through publication of this Notice, the BLM advises that local government may not have endorsed or approved these assumptions.

Esmeralda County Board of Commissioners expressed an interest in purchasing, by direct sale, the surface estate of these lands. As proof of interest, Esmeralda County Board of Commissioners approved Resolution No. 15–R–08, ''Resolution in Support of Esmeralda County to Purchase by Direct Sale of the Gold Point Disposal Area with the Bureau of Land Management.'' As documented in the resolution, the county understands the sale would be ''for the purpose of the county re-conveying to existing owners their holdings giving them a secure title'' and that the county's intent is ''that our citizens residing in Gold Point be able to live without the threat of being displaced and that its historic nature be preserved.''

The BLM proposes a direct sale because it serves an important local public objective of facilitating Esmeralda County's efforts to resolve long-standing inadvertent unauthorized occupancy issues within the historic mining townsite of Gold Point and to provide for the expansion of the existing townsite.

Common variety mineral materials, such as gravel, sand, and fill, are present on the subject lands. However, there is little or no market for these materials in the local area and the materials are widely present in the region. Therefore, the development or marketability potential for mineral materials on the subject lands is low. The patent, when issued, will contain a mineral reservation to the United States for all minerals. Mineral regulations published in the **Federal Register** in 2001, state that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate,'' 66 FR 58894 (Nov. 23, 2001). Further explanation is contained in BLM Instruction Memorandum No. 2014–085 (April 23, 2014), available on BLM's website at: *https://www.blm.gov/policy/woim-2014-085*. An Environmental Site Assessment, completed in February 2017, found that the lands have no recognized environmental conditions.

The public land will not be offered for sale prior to October 26, 2018. The patent, if issued, will be subject to the following terms, conditions, and reservations:

1. The parcel is subject to all valid existing rights;

2. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use occupancy or occupations on the patented lands;

3. A reservation for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

4. All mineral deposits in the lands so patented, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations as established by the Secretary of the Interior are reserved to the United States, together with all necessary access and exit rights.

No representation, warranty, or covenant of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of a parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA. The patent will convey the property in its existing condition and, therefore, if the parcel is lacking access from a public road or highway, the buyer will be responsible for establishing legal access.

The BLM will send the purchaser an offer letter with detailed information for full payment of the proposed 221.68-acre parcel. The purchaser will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 20 percent of the purchase price. The purchaser must remit the remainder of the purchase price within 180 days from the date of the sale offer. Payments must be by certified check, U.S. postal money order, bank draft, or cashier's check, and made payable to the U.S. Department of the Interior—BLM or conduct an electronic funds transfer. The balance is due 2 weeks prior to the 180th day if the purchaser conducts an electronic funds transfer. Failure to meet conditions established for this sale will void the sale and forfeit any payment(s) received.

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.

The BLM Nevada State Director or other authorized official of the Department of the Interior will review comments regarding this proposed sale and may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2

Timothy J. Coward,

Field Manager.

[FR Doc. 2018–18520 Filed 8–24–18; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–26271; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before August 11, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by September 11, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their

consideration were received by the National Park Service before August 11, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARKANSAS

Bradley County

Moro Bay Ferry, 670 AR 600, Moro Bay, SG100002944

Clay County

Clay County Courthouse, Eastern District, 151 S 2nd Ave., Piggott, SG100002945

Clay County Courthouse, Western District, 800 W 2nd St., Corning, SG100002946

Conway County

Bold Pilgrim Cemetery, End of Bold Pilgrim Rd., W of AR 9, Morrilton vicinity, SG100002947

Johnson County

Vorhees School (New Deal Recovery Efforts in Arkansas MPS), 415 N College Ave., Clarksville, MP100002948

Marion County

Johnson, William Jasper, House, N of jct. of Lakeshore Rd. & Honeysuckle Ave., Bull Shoals, SG100002949

Pulaski County

Block Realty Building, 723 W Markham St., Little Rock, SG100002950

Buffalo, Cecil M., Jr., House, 16324 Arch Street Pike., Little Rock, SG100002951

Gray, Thomas, House, 25 River Valley Rd., Little Rock, SG100002955

Sebastian County

Crow, Dr. Neil, Sr., House, 19 Berry Hill Rd., Fort Smith, SG100002956

CALIFORNIA

Contra Costa County

Martinez Grammar School Annex (Martinez, California MPS), 525 Henrietta St., Martinez, MP100002957

Los Angeles County

Canterbury Apartment Hotel, The, 1746 N Cherokee Ave., Los Angeles, SG100002958

DISTRICT OF COLUMBIA

District of Columbia

Kingman Park Historic District, Between Rosedale & D St., Maryland Ave. NE, 19th St. & Oklahoma Ave. NE, Washington, SG100002960

GEORGIA

Richmond County

Hull, Dr. Asbury and Martha, House, 2749 Hillcrest Ave., Augusta, SG100002961

KANSAS

Douglas County

Marion Springs School (Public Schools of Kansas MPS), 316 E 900 Rd., Baldwin City vicinity, MP100002963

Willow Springs Santa Fe Trail District (Santa Fe Trail MPS), N 550 & E 1100 Rds., Baldwin City vicinity, MP100002964

Franklin County

Appanoose Church of the Brethren and Cemetery, 492 Woodson & 196 N 1 Rds., Overbrook vicinity, SG100002965

Morris County

Dunlap Colored Cemetery, 2050 S 100 Rd., Dunlap vicinity, SG100002967

Riley County

Pioneer Log Cabin, 405 N 11th St., Manhattan, SG100002969

Saline County

St. John's Hospital, 139 N Penn Ave., Salina, SG100002970

Sedgwick County

Western Union Building, 154 N Topeka Ave., Wichita, SG100002971

Shawnee County

Casson Building, 603 SW Topeka Blvd., Topeka, SG100002972

NEW HAMPSHIRE

Coos County

Saint Anne Historic District, Bounded by Pleasant/Main, Church, School & Success Sts., Berlin, SG100002973

Rockingham County

Armstrong Memorial Building, 3 N Lowell Rd., Windham, SG100002974

WASHINGTON

King County

Mount Baker Park Historic District, Roughly bounded by 30th Ave. S, Lake Washington Blvd., 37th Ave. S, S College, S Court, S Hanford & S Byron Sts., Seattle, SG100002975

WISCONSIN

Dodge County

Neosho Village Hall, 115 S Schuyler St., Neosho, SG100002976

The following resource has been determined eligible for listing on the National Register of Historic Places:

COLORADO

Rio Blanco County

Meeker Historic District, Roughly bounded by Main, 4th & 8th Sts. & Park Ave., Meeker, SG100002306

A request for removal has been made for the following resource:

KANSAS

Rice County

Lyons High School (Public Schools of Kansas MPS), 401 S Douglas Ave., Lyons, OT05000556

Additional documentation has been received for the following resources:

ARKANSAS

Pulaski County

Governor's Mansion Historic District, Bounded by the Mansion grounds, 13th, Center, Gaines, and 18th Sts., Little Rock, AD78000620

Central High School Neighborhood Historic District, Roughly bounded by MLK Dr., Thayer Ave., W 12th St., and Roosevelt Rd., Little Rock, AD96000892

GEORGIA

Chatham County

Savannah Historic District, Bounded by E Broad, Gwinnett, and W Broad Sts. and the Savannah River, Savannah, AD66000277

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

CALIFORNIA

Marin County

Tocaloma Bridge, Old segment of Sir Francis Drake Blvd. across Lagunitas Cr., Tocaloma, SG100002959

Authority: Section 60.13 of 36 CFR part 60.

Dated: August 14, 2018.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program and Deputy Keeper of the National Register of istoric Places.

[FR Doc. 2018–18460 Filed 8–24–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–26237; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before August 4, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by September 11, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 4, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

CALIFORNIA

Fresno County

Hotel Fresno, 1241–1263 Broadway Plz., Fresno, SG100002910

COLORADO

Las Animas County

Starkville Central School, 8801 Cty. Rd. 69.0, Starkville, SG100002911

DELAWARE

Sussex County

Ball Theatre, 214 Main St., Millsboro, SG100002912

DISTRICT OF COLUMBIA

District of Columbia

St. Paul's College, 3015 4th St. NE, Washington, SG100002913

ILLINOIS

Cook County

South Side Community Art Center, 3831 S Michigan Ave., Chicago, SG100002914

Morgan County

Jacksonville Downtown Historic District, Roughly bounded by Court, West, Morgan, Sandy, Main, Mauvaisterre & State Sts., Jacksonville, SG100002915

Vermilion County

First National Bank Building, 2–4 N Vermilion St., Danville, 00001335

INDIANA

Floyd County

Fine, M. and Sons Building, 1420 E Main St., New Albany, SG100002917

IOWA

Scott County

First National Bank of Davenport, 1606 Brady St., Davenport, SG100002918

Washington County

West Side Residential Historic District, Roughly the 300–800 blks. of W Washington Blvd., W Jefferson & W Main Sts. Including Sunset Park, Washington, SG100002919

KENTUCKY

Kenton County

Battery Bates and Battery Coombs, Sleepy Hollow Rd., Covington, SG100002920

NEW YORK

Clinton County

Mooers Riverside Cemetery, Jct. of US 1 & Mill St., Mooers, SG100002921

Erie County

Fiddlers Green Historic District, 65–85 Franklin & 23–37 N Buffalo Sts., Springville, SG100002922

Warren County

Queensbury Hotel, The, 88 Ridge St., Glens Falls, SG100002924

NORTH CAROLINA

Ashe County

Pennington, Cicero, Farm (Ashe County, North Carolina, c. 1799–1955 MPS), 630 Spencer Branch Rd., Sturgills vicinity, MP100002925

Bladen County

Bladen County Training School (Rosenwald School Building Program in North Carolina MPS), 1360 Martin Luther King Jr. Dr., Elizabethtown, MP100002926

Forsyth County

Speas, William Henry and Sarah Hauser, House, 3991 River Ridge Rd., Pfafftown vicinity, SG100002927

Guilford County

Minneola Manufacturing Company Cloth Warehouse, 108 E Railroad Ave., Gibsonville, SG100002928

Madison County

Ellerson, William R. House, 320 Gahagans Rd., Hot Springs, SG100002929

Wake County

Oak Grove Cemetery, 4303 Beryl Rd., Raleigh, SG100002930

Oberlin Cemetery, 1014 Oberlin Rd., Raleigh, SG100002931

Wilkes County

Lincoln Heights School, (Rosenwald School Building Program in North Carolina MPS), 197 Lincoln Heights Rd., Wilkesboro, MP100002932

PUERTO RICO

Barranquitas Municipality

El Cortijo, PR 162, Km 18.5, Pueblo Ward, Barranquitas, SG100002934

San Juan Municipality

Instituto Loaiza Cordero para Ninos Ciegos Historic District—Distrito Historico Instituto, Loaiza Cordero para Ninos Ciegos, 1312 Avenida Fernandez Juncos, San Juan vicinity, SG100002935

Puerta de Tierra Historic District—Distrito Histórico de Puerta de Tierra

San Juan Islet to the east of the Old San Juan Historic District, San Juan vicinity, SG100002936

RHODE ISLAND

Providence County

Andrews Mill Company Plant, 761 Great Rd., North Smithfield, SG100002937

WASHINGTON

King County

Ravenna—Cowen North Historic District, Roughly bounded by 65th St., Ravenna Park, Ravenna Ravine & 12th Ave., Seattle, SG100002939

Mason County

Ebenezer Congregational Church, 18500 WA 3, Allyn, SG100002940

WISCONSIN

Waupaca County

Clintonville High School, 105 S Clinton Ave. & 25 8th St., Clintonville, SG100002941

WYOMING

Johnson County

Jameson Site, Address Restricted, Barnum vicinity, SG100002942

A request for removal has been made for the following resource:

INDIANA

Delaware County

Johnson, J. C., House, 322 E Washington, Muncie, OT82000032

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

TENNESSEE

Maury County

United States Post Office and Court House, 815 S Garden St., Columbia, SG100002938

Authority: Section 60.13 of 36 CFR part 60.

Dated: August 9, 2018.

Julie H. Ernstein

Acting Chief, National Register of Historic Places/National Historic Landmarks Program and Deputy Keeper of the National Register of Historic Places.

[FR Doc. 2018–18452 Filed 8–24–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request, Evaluation of the American Apprenticeship Initiative, New Collection

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 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 is properly assessed. Currently, DOL is soliciting comments concerning the collection of data on the Evaluation of the American Apprenticeship Initiative. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 26, 2018.

ADDRESSES: You may submit comments by either one of the following methods:

Email: ChiefEvaluationOffice@dol.gov; Mail or Courier: Janet Javar, Chief Evaluation Office, OASP, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Contact Janet Javar by email at *ChiefEvaluationOffice@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background: The American Apprenticeship Initiative (AAI) awarded funds to 46 grantees to support the expansion of quality and innovative apprenticeship training programs. The Department of Labor is sponsoring an evaluation of this initiative that includes the following four components:

1. An implementation study to describe how AAI programs develop, operate and mature.
2. An outcomes study to examine in-program and post-program outcomes of participants in apprenticeships, particularly around employment, earnings, wages, and employment retention, as well as pre-intervention and post-intervention certification and credential attainment.
3. A return on investment (ROI) study to estimate the benefits and costs of apprenticeship to employers.
4. An impact study to assess the efforts of select AAI grantees to sell apprenticeships to employers and to assist employers in registration of apprenticeships.

This **Federal Register** Notice provides the opportunity to comment on two proposed new information collection activities that will be used in the evaluation:

- Employer survey—a key source of information for the ROI study, the employer survey will be used to generate an estimate of the returns employers can expect by investing in apprenticeship programs. This on-line survey asks about the firm's characteristics, sponsorship, apprenticeship structure, and specific questions about the costs and benefits employers experience by offering apprenticeship.
- Participant survey—a key source of information for the outcomes study, the survey gathers information about the participants' experience in an AAI apprenticeship. The survey includes questions on an apprentice's background prior to apprenticeship, apprenticeship experiences, skills and knowledge gained, and outcomes. The survey will use a bi-modal approach: on-line with telephone follow-up as needed.

A separate information collection activity notice on interview protocols for implementation study site visits, a grantee survey, and a management information system (MIS) for the impact study was published on September 13, 2017 (82 FR 43038). These collection activities will commence once the information collection request is approved.

II. Desired Focus of Comments: DOL is soliciting comments concerning the above data collection for the Evaluation of the American Apprenticeship Initiative. DOL is particularly interested in comments that do the following:

- 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.
- 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—for example, permitting electronic submission of responses.

III. Current Actions: At this time, DOL is requesting clearance for the survey of employers affiliated with AAI grantees and for the survey of participants served through AAI grants.

ESTIMATED BURDEN HOURS

Type of instrument (form/activity)	Number of respondents [a]	Number of responses per respondent	Total number of responses	Average burden hour per response (in hours)	Estimated burden hours
Employer Survey	400 [b]	1	400	1	400
Participant Survey	667 [c]	1	667	0.5	334
Totals	1,067		1,067		734

[a] We are seeking a clearance period of three years.
[b] Assumes a sample of 3,000 employers with a 40 percent response rate.
[c] Assumes a sample of 2,500 participants with an 80 percent response rate.

Type of Review: New information collection request.

OMB Control Number: 1290–0NEW.

Affected Public: Employers offering registered apprenticeships through affiliation with AAI grantees and participants in AAI apprenticeships.

Dated: August 20, 2018.

Molly Irwin,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2018–18478 Filed 8–24–18; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the DOL core programs and services that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for individuals or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green at 202–693–4734.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Monday, September 10, 2018 by contacting Mr. Gregory Green at 202–693–4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATE AND TIME: Thursday, September 20, 2018, beginning at 9:00 a.m. and ending at approximately 4:00 p.m. (EST).

ADDRESSES: The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210, Conference Room N–4437 C&D. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

Security Instructions: Meeting participants should use the visitor's entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.
2. Know the name of the event being attended: The meeting event is the Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).
3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.
4. Laptops and other electronic devices may be inspected and logged for identification purposes.
5. Due to limited parking options, Metro's Judiciary Square station is the easiest way to access the Frances Perkins Building.

Notice of Intent to Attend the Meeting: All meeting participants should submit a notice of intent to attend by Friday, September 7, 2018, via email to Mr. Gregory Green at *green.gregory.b@dol.gov,* subject line ''September 2018 ACVETEO Meeting.''

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Green, Assistant Designated Federal Official for the ACVETEO, (202) 693–4734.

SUPPLEMENTARY INFORMATION: The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary for VETS, with respect to outreach activities and employment and training needs of veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Agenda

9:00 a.m. Welcome and remarks, Matthew M. Miller, Deputy Assistant Secretary, Veterans' Employment and Training Service

9:05 a.m. Administrative Business, Gregory Green, Assistant Designated Federal Official

9:10 a.m. Transition & Training Subcommittee Discussion on Fiscal Year 2018 recommendations

10:10 a.m. Barriers to Employment Subcommittee Discussion on Fiscal Year 2018 recommendations

11:10 a.m. Break

11:20 p.m. Direct Services Subcommittee Discussion on Fiscal Year recommendations

12:20 p.m. Lunch

1:30 p.m. Committee finalize recommendations for the Fiscal Year 2018

3:00 p.m. Break

3:15 p.m. Subcommittee Discussion/Assignments, ACVETEO Chairman, Eric Eversole

3:45 p.m. Public Forum, Gregory Green, Assistant Designated Federal Official
4:00 p.m. Adjourn

Signed in Washington, DC, this 16th day of August 2018.

Matthew M. Miller,

Deputy Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2018–18477 Filed 8–24–18; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

30-Day Notice for the "NEA Funding Reporting Requirements—Final Descriptive Reports FY2019 and Later"

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: NEA Funding Reporting Requirements—Final Descriptive Reports FY2019 and later. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov*.

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: The Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which:

- 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.

Agency: National Endowment for the Arts.

Title: NEA Funding Reporting Requirements—Final Descriptive Reports FY2019 and Later

OMB Number: New.

Frequency: Annually.

Affected Public: Nonprofit organizations, government agencies, and individuals.

Estimated Number of Respondents: 2,507.

Estimated Time per Respondent: 10 hours.

Total Burden Hours: 23,849 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Final Descriptive Reports elicit relevant information from individuals, nonprofit organizations, and government arts agencies that receive funding from the National Endowment for the Arts. According to OMB 2 CFR part 200, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and that all terms and conditions have been fulfilled.

Dated: August 21, 2018.

Jillian LeHew Miller,

Director, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 2018–18438 Filed 8–24–18; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: Closed teleconference of the National Science Board, to be held Thursday, August 30, 2018 from 3:00 p.m. to 4:00 p.m. EDT.

PLACE: This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Chair's opening remarks; discussion of the draft report on midscale projects.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Brad Gutierrez, 2415 Eisenhower Avenue, Alexandria, VA 22314. Telephone: (703) 292–7000. You may find meeting information and updates (time, place, subject matter or status of meeting) at *https://www.nsf.gov/nsb/meetings/notices.jsp#sunshine*.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2018–18582 Filed 8–23–18; 11:15 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–212 and CP2018–294]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 29, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the

Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–212 and CP2018–294; *Filing Title:* USPS Request to Add Priority Mail Express Contract 64 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 21, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* August 29, 2018.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–18475 Filed 8–24–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83895; File No. SR–BOX–2018–27]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make a Number of Non-Substantive Changes to the Rulebook

August 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 10, 2018, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a number of non-substantive changes to the rulebook. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make a number of non-substantive changes to the rulebook. Currently, the Exchange's rulebook is singularly focused on the trading of options. The Exchange is now proposing to amend certain sections of the rulebook that do not specifically apply to the trading of options in order to provide broader rules that apply to Participants of the Exchange in general.[3] The Exchange believes these changes are necessary to provide the Exchange with greater flexibility.

First, the Exchange is proposing to amend the definitions of ''Options Participant'' and ''Participant'' in Rule 100(a)(41). Specifically, the Exchange is proposing to amend the definitions in order to cover Participants of the Exchange regardless of whether they participate in the trading of options. Additionally, the Exchange is proposing that the definition clarify that Participants register with the Exchange for purposes of participating in trading on ''a facility of the Exchange.''[4] The Exchange notes that another options exchange uses similar non-options specific language.[5]

Next, the Exchange is replacing the term ''Options Participant'' with ''Participant'' in a number of rules as outlined below. Certain Exchange rules are not options specific and therefore the Exchange believes it is appropriate to replace ''Options Participant'' with ''Participant'' to provide more general coverage. The proposed change will clarify that these Exchange rules apply to Participants of the Exchange regardless of whether they participate in the trading of options.[6]

The Exchange proposes to amend its rules as it relates to usage of the term ''Options Participant'' as follows:

- The Exchange proposes to replace ''Options Participant'' with ''Participant'' in Rule 100(a)(4) which defines associated person or a person associated with a Participant.

[3] For example, Exchange rules dealing with membership apply to all Participants of the Exchange as opposed to rules related to trading on BOX, which is product-specific.

[4] BOX is an options trading facility of the Exchange.

[5] *See* Nasdaq ISE Rule 100(a)(30) defining a Member as an organization that has been approved to exercise trading rights associated with Exchange Rights.

[6] The Exchange notes that the Options facility is the only facility of the Exchange. If the Exchange decides trade other products it will first file a proposal with the Commission.

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rule 1060 (Exchange's Cost of Defending Legal Proceedings).[7]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 2000 (Right, Privileges, and Duties of Options Participants), 2010 (Obligations of Options Participants, BOX and the Exchange), 2020 (Participant Eligibility and Registration), 2040 (Restrictions), IM–2040–1, 2050 (Application Procedures for Options Participants or to become an Associated Person of a Participant), 2060 (Revocation of Options Participant Status or Association with a Participant), 2070 (Voluntary Termination of Rights as an Options Participant), 2080 (Dues, Assessments and Other Charges), and 2090 (Affiliation between Exchange and an Options Participant).[8]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 3000 (Just and Equitable Principles of Trade), IM–3000–1, 3010 (Adherence to Law), 3020 (Sharing Offices and Wire Connections), 3040 (False Statements), 3050 (Manipulation), 3060 (Gratuities), 3070 (Conduct and Compliance with the Rules), 3080 (Rumors), 3090 (Prevention of the Misuse of Material Nonpublic Information), 3100 (Disciplinary Action by Other Organizations), 3110 (Other Restrictions on Participants), 3180 (Mandatory Systems Testing), and 3220 (Disruptive Quoting and Trading Activity Prohibited).[9]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 4160 (Transfer of Accounts), 4190 (Public Customer Complaints), and 4200 (Telephone Solicitation).[10]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 10000 (Maintenance, Retention and Furnishing of Books, Records and Other Information), 10020 (Financial Reports), 10030 (Audits), 10040 (Automated Submission of Trade Data), 10050 (Regulatory Cooperation), and 10070 (Anti-Money Laundering Compliance Program).[11]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 10200 (Minimum Requirements), 10210 (Early Warning'' Notification Requirements), and 10220 (Power of CRO to Impose Restrictions).[12]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 11000 (Imposition of Suspension), 11010 (Investigation Following Suspension), 11020 (Reinstatement), and 11040 (Termination of Rights by Suspension).[13]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rules 12000 (Disciplinary Jurisdiction), 12010 (Requirement to Furnish Information), 12020 (Investigation), 12030 (Letters of Consent), 12040 (Charges), 12060 (Hearing), 12110 (Judgement and Sanction), 12120 (Procedural Matters), and Rule 12160 (Expedited Suspension Provision).[14]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rule 13000 (Scope of Series).[15]

• The Exchange is proposing to replace ''Options Participant'' with ''Participant'' in Rule 14000 (Arbitration).[16]

Lastly, the Exchange is proposing to amend Rule 2040(e)(3). Specifically, the Exchange proposes to remove the term ''BOX'' and replace it with ''a facility of the Exchange.'' The Exchange notes that BOX is a facility of the Exchange and therefore the Exchange is not proposing to substantively change the rule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[17] in general, and Section 6(b)(5) of the Act,[18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can easily navigate, understand and comply with the Exchange's rulebook. The Exchange believes that the proposed rule change enables the Exchange to continue to enforce the Exchange's rules. The Exchange believes that none of the proposed changes discussed herein alter the application of any rules. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. Further, the Exchange believes that, by ensuring the rulebook accurately reflects the intention of the Exchange's rules, the proposed rule change reduces potential investor or market participant confusion.

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. In this regard and as indicated above, the Exchange notes that the proposed changes will not alter any of the Exchange's rules. Therefore, the proposed changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to make non-substantive changes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative

[7] *See* proposed changes to Rule 1060(a).

[8] *See* proposed changes to Rules 2000, 2010, 2020(a), 2040(a), 2040(f), IM–2040–1, 2050(a)–(e), and (g), 2060, 2070, 2080, 2090. The Exchange notes that is also replacing ''Options Participant'' with ''Participant'' in the titles of rules 2050, 2060, 2070, and 2090.

[9] *See* proposed changes to Rules 3000(a), IM–3000–1, 3010, 3020, 3040, 3050(a) and (b), 3060, 3070(a), 3080, 3090(a), and (c)–(e), 3100, 3110, 3180(a)–(c), 3220(a).

[10] *See* proposed changes to Rules 4160(a), 4160(h), 4160(i), 4190(c) and (d), 4200(c) and (d).

[11] *See* proposed changes to Rules 10000(a)–(c), 10020, 10030(a)–(c), 10040(a)–(d), 10050(c) and (d), 10070(a) and (b).

[12] *See* proposed changes to Rules 10200, 10210, 10220.

[13] *See* proposed changes to Rules 11000(a) and (b), 11010(a) and (b), 11020(a) and (c), 11040.

[14] *See* proposed changes to Rules 12000(a)–(c), 12010(a), 12020, 12030(a), 12040(a), 12060(b), (e) and (f), 12110(a), (c) and (d), 12120(a), 12160(a).

[15] *See* proposed changes to Rule 13000.

[16] *See* proposed changes to Rule 14000(b), (c) and (e).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

for 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[19] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2018–27 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–BOX–2018–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2018–27 and should be submitted on or before September 17, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18426 Filed 8–24–18; 8:45 am]

BILLING CODE 8011–01–P

[19] The Exchange has fulfilled this requirement.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33206; 812–14918]

Cushing Asset Management, LP et al.

August 21, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (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) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund 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 Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds to issue Shares in less than Creation Unit size to investors participating in a distribution reinvestment program.

APPLICANTS: Cushing ETF Trust (the ''Trust''), a Delaware statutory trust which will register under the Act as an open-end management investment company with multiple series, Cushing Asset Management, LP (the ''Adviser''), a Texas limited partnership registered as an investment adviser under the Investment Advisers Act of 1940, and Quasar Distributors, LLC (the ''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on June 8, 2018 and amended on July 25, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 17, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: The Trust and the Adviser, 8117 Preston Road, Suite 440, Dallas, Texas 75225, and the Distributor, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Benjamin Kalish, Attorney-Adviser, at

(202) 551–7361, or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units (other than pursuant to a distribution reinvestment program, as described in the application). All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis, or issued in less than Creation Unit size to investors participating in a distribution reinvestment program. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or

[1] Applicants request that the order apply to the series of the Trust identified and described in Appendix A to the application (''Initial Fund'') and any additional series of the Trust, and any other existing or future open-end management investment company or existing or future series thereof (together with the Initial Fund, ''Funds''), each of which will operate as an ETF, and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

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. 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. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18419 Filed 8–24–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33205; File No. 812–14839]

Tortoise Capital Advisors, L.L.C., et al.

August 21, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDC'') and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Tortoise Energy Infrastructure Corporation (''Energy Infrastructure Corp.''), Tortoise MLP Fund, Inc. (''MLP Fund''), Tortoise Pipeline & Energy Fund, Inc. (''Pipeline Fund''), Tortoise Energy Independence Fund, Inc. (''Independence Fund''), Tortoise Power and Energy Infrastructure Fund, Inc. (''Power Fund''), Tortoise Essential Assets Income 2024 Term Fund, Inc. (''Income Fund''), Tortoise Tax-Advantaged Social Infrastructure Fund, Inc. (''Social Infrastructure Fund'' and together with Energy Infrastructure Corp., MLP Fund, Pipeline Fund, Independence Fund, Power Fund, and Income Fund, the ''Existing Regulated Funds''), Tortoise Capital Advisors, L.L.C. (''Tortoise Advisors''), on behalf of itself and its successors, Tortoise Direct Opportunities Fund, LP (''DO Fund''), Tortoise Direct Opportunities Fund II, LP (''DO Fund II''), Tortoise Direct Municipal Opportunities Fund, LP (''Municipal Fund'' and, together with DO Fund and DO Fund II, the ''Existing Affiliated Funds''), and Tortoise Credit Strategies, LLC (the ''Existing Affiliated Adviser'').

FILING DATES: The application was filed on November 7, 2017, and amended on March 29, 2018, and August 1, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 17, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090. Applicants, 11550 Ash Street, Suite 300, Leawood, KS 66211.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879 or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations:

1. Energy Infrastructure Corp. was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Energy Infrastructure Corp. is a registered investment company under the Act. Energy Infrastructure Corp.'s Objectives and Strategies [1] are to seek a high level of total return with an emphasis on current distributions primarily through investments in publicly traded master limited partnerships (''MLPs'') and their affiliates in the energy infrastructure sector. Energy Infrastructure Corp. has a six member Board,[2] of which four members are Non-Interested Directors.[3]

2. MLP Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. MLP Fund is a registered investment company under the Act. MLP Fund's Objectives and Strategies are to seek a high level of total return with an emphasis on current distributions primarily through investments in energy MLPs and their affiliates, with an emphasis on natural gas infrastructure MLPs. MLP Fund has a six member Board, of which four members are Non-Interested Directors.

3. Pipeline Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Pipeline Fund is a registered investment company under the Act. Pipeline Fund has elected to be treated, and intends to comply with the requirements to continue to qualify annually, as a regulated investment company (''RIC'') under the Internal Revenue Code of 1986, as amended (the ''Code''), and intends to continue to make such election in the future. Pipeline Fund's Objectives and Strategies are to seek a high level of total return with an emphasis on current distributions primarily through investments in equity securities of North American pipeline companies that transport natural gas,

[1] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[2] The term ''Board'' refers to the board of directors of any Regulated Fund.

[3] The term ''Non-Interested Directors'' refers to the directors of any Regulated Fund that are not ''interested persons'' of the Regulated Fund within the meaning of section 2(a)(19) of the Act.

natural gas liquids, crude oil and refined products, and other energy infrastructure companies. Pipeline Fund has a six member Board, of which four members are Non-Interested Directors.

4. Independence Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Independence Fund is a registered investment company under the Act. Independence Fund has elected to be treated, and intends to comply with the requirements to continue to qualify annually, as a RIC under the Code, and intends to continue to make such election in the future. Independence Fund's Objectives and Strategies are to seek a high level of total return with an emphasis on current distributions primarily through investments in North American energy companies that engage in the exploration and production of crude oil, condensate, natural gas and natural gas liquids that generally have a strong presence in North American oil and gas reservoirs, including shale, and, to a lesser extent, on companies that provide associated transportation, processing, storage, servicing and equipment. Independence Fund has a six member Board, of which four members are Non-Interested Directors.

5. Power Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Power Fund is a registered investment company under the Act. Power Fund has elected to be treated, and intends to comply with the requirements to continue to qualify annually, as a RIC under the Code, and intends to continue to make such election in the future. Power Fund's Objectives and Strategies are to seek a high level of current income, with a secondary objective of capital appreciation primarily through investments in income-producing fixed income and equity securities issued by power and energy infrastructure companies. Power Fund has a six member Board, of which four members are Non-Interested Directors.

6. Income Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Income Fund is a registered investment company under the Act. Income Fund has elected to be treated, and intends to comply with the requirements to continue to qualify annually, as a RIC under the Code, and intends to continue to make such election in the future. Income Fund's Objectives and Strategies are to seek a high level of current income, with a secondary objective of capital appreciation primarily through investments in corporate debt securities, and private investments. Income Fund has a six member Board, of which four members are Non-Interested Directors.

7. Social Infrastructure Fund was organized as a Maryland corporation for the purpose of operating as an externally-managed, non-diversified, closed-end management investment company. Social Infrastructure Fund is a registered investment company under the Act. Social Infrastructure Fund has elected to be treated, and intends to comply with the requirements to continue to qualify annually, as a RIC under the Code, and intends to continue to make such election in the future. Social Infrastructure Fund's Objectives and Strategies are to seek a high level of total return with an emphasis on tax-advantaged income primarily through investments in the social infrastructure sector. Social Infrastructure Fund has a four member Board, of which three members are Non-Interested Directors.

8. Each of the Existing Affiliated Funds was organized as a Delaware limited partnership and would be an investment company but for section 3(c)(7) of the Act. Each Existing Affiliated Fund has investment objectives and policies that are similar to those of the Existing Regulated Funds.

9. Tortoise Advisors is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Tortoise Advisors is wholly-owned by Tortoise Investments, LLC. Lovell Minnick Partners LLC (''Lovell Minnick'') owns a majority interest in Tortoise Investments, LLC (''Tortoise''). An entity formed by Lovell Minnick owned by certain private funds sponsored by Lovell Minnick and a group of institutional co-investors owns a controlling interest in Tortoise. Certain employees in the Tortoise complex also own interests in Tortoise. Tortoise Advisors serves as investment adviser to Energy Infrastructure Corp., MLP Fund, Pipeline Fund, Independence Fund, Power Fund, DO Fund, and DO Fund II.

10. The Existing Affiliated Adviser is a Delaware limited liability company and is registered as an investment adviser under the Advisers Act. The Existing Affiliated Adviser is privately held and is an affiliate of, and under common control with, Tortoise Advisors. The Existing Affiliated Adviser serves as investment adviser to Income Fund, Social Infrastructure Fund, and Municipal Fund.

11. Applicants seek an order (''Order'') to permit one or more Regulated Funds [4] and/or one or more Affiliated Funds [5] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price; [6] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[7]

12. Applicants state that a Regulated Fund may, from time to time, form a Wholly-Owned Investment Sub.[8] Such a

[4] ''Regulated Fund'' means the Existing Regulated Funds and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means (a) Tortoise Advisors, (b) the Existing Affiliated Adviser, and (c) any future investment adviser that is controlled by Tortoise Advisors and is registered under the Advisers Act.

[5] ''Affiliated Fund'' means (a) the Existing Affiliated Funds and (b) any Future Affiliated Fund. ''Future Affiliated Fund'' means any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[6] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[7] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[8] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board

subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

13. When considering Potential Co-Investment Transactions for any Regulated Fund, the applicable Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment (''Available Capital''), and other pertinent factors applicable to that Regulated Fund. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on Available Capital or diversification. The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

14. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'') [9] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

15. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

16. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

17. Under condition 14, if an Adviser or its principal owners (the ''Principals''), or any person controlling, controlled by, or under common control with an Adviser or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of an Adviser or the Principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. Applicants represent that the Non-Interested Directors will evaluate and approve any such independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis:

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit participation by a registered investment company and an affiliated person in any ''joint enterprise or other joint arrangement or profit-sharing plan,'' as defined in the rule, without prior approval by the Commission by order upon application. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies. Similarly, with regard to BDCs, section 57(a)(4) of the Act generally prohibits certain persons specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC in contravention of rules as prescribed by the Commission. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs.

2. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants submit that Tortoise Advisors and the Existing Affiliated Adviser may be deemed to control the Existing Regulated Funds and the Existing Affiliated Funds, respectively, and any other Adviser will be controlling, controlled by, or under common control with Tortoise Advisors.

has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. Any future subsidiaries of the Regulated Funds that participate in Co-Investment Transactions will be Wholly-Owned Investment Subs.

[9] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

As a result, the Regulated Funds may be deemed to be under common control, and thus affiliated persons of each other under section 2(a)(3)(C) of the Act. In addition, the Affiliated Funds may be deemed to be under common control with the Regulated Funds, and thus affiliated persons of each Regulated Fund under section 2(a)(3)(C) of the Act. As a result, these relationships might cause a Regulated Fund and one or more other Regulated Funds and/or one or more Affiliated Funds participating in Co-Investment Transactions to be subject to section 17(d) or 57(a)(4) of the Act, and thus subject to the provisions of rule 17d–1 of the Act.

4. Applicants state that in the absence of the requested relief, in some circumstances the Regulated Funds would be limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions of the application will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and would be done in a manner that is not different from, or less advantageous than, that of other participants.

Applicants' Conditions:

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) the terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of the Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by Section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[10]

[10] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the maximum amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee [11] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating

[11] Applicants are not requesting and the staff of the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25% of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18427 Filed 8–24–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83892; File No. SR–NYSE–2018–38]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Independence Policy of the Board of Directors of the Exchange

August 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 15, 2018, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Independence Policy of the Board of Directors of the Exchange by (a) streamlining references to Intercontinental Exchange, Inc. subsidiaries that are national securities exchanges, (b) removing obsolete references, and (c) adding references to national securities exchange affiliates of the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Independence Policy by (a) streamlining references to ICE subsidiaries that are national securities exchanges, (b) removing obsolete references, and (c) adding references to national securities exchange affiliates of the Exchange.

Definition of ''Exchange''

The Independence Policy includes references to the Exchange and its national securities exchange affiliates NYSE American, Inc. (''NYSE American'') and NYSE Arca, Inc. (''NYSE Arca'').[3] It does not include references to the Exchange's newest national securities exchange affiliates, NYSE National, Inc. (''NYSE National'') and Chicago Stock Exchange, Inc. (''CHX''). The Exchange proposes to replace lists of individual national securities exchange affiliates in the Independence Policy with the term ''Exchange,'' defined as any national securities exchange registered under Section 6 of the Exchange Act[4] and controlled, directly or indirectly, by ICE. The definition would encompass the Exchange, NYSE American, NYSE Arca, NYSE National, and CHX (collectively, the ''SRO Affiliates'').

Specifically, the Exchange proposes to add a second paragraph under ''Purpose'' with the definition of ''Exchange.''[5] In addition, the Exchange proposes to make the following changes in the section under ''Independence Qualifications'':

- Replace ''New York Stock Exchange LLC, NYSE Arca, Inc. and NYSE American LLC'' with ''an Exchange'' in category 1(b) and (c);
- Replace ''New York Stock Exchange LLC, on NYSE Arca, Inc. or on NYSE American LLC'' with ''an Exchange'' in category 1(d) and category 4;
- Replace ''New York Stock Exchange LLC, and NYSE Arca, Inc. and NYSE American LLC exercise'' with ''each Exchange exercises'' in the final paragraph of category 1;

[3] The independence policy of the board of directors of the Exchange's affiliate NYSE American is substantially the same as the Independence Policy. NYSE American has submitted substantially the same proposed rule change to its independence policy as described herein. *See* SR–NYSEAmer–2018–42.

[4] 15 U.S.C. 78f.

[5] The proposed text would include the definition of ''ICE.'' Accordingly, the Exchange proposes to delete the definition of ICE in ''Independence Requirements,'' category 1.

• Replace ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc. and NYSE American LLC'' with ''each Exchange'' in category 2; and

• Replace ''New York Stock Exchange LLC, NYSE Arca, Inc. or NYSE American LLC'' with ''an Exchange'' under ''Listed Companies.''

The proposed changes would make the requirements under ''Independence Qualifications'' and ''Listed Companies'' apply to all of the Affiliate SROs, and not just those specifically listed in the Independence Policy. In addition, it would make the Independence Policy consistent with the governing documents of ICE and the intermediate holding companies between the Exchange and ICE, which use the term ''Exchange.'' [6]

Removal of Obsolete References

The Exchange no longer has allied members.[7] Accordingly, the Exchange proposes to delete the text ''paragraph (c) of Rule 2 of the New York Stock Exchange LLC and'' from category 1(b) of ''Independence Qualifications.''

NYSE Arca Equities, Inc. merged with NYSE Arca, Inc., and therefore no longer exists.[8] Accordingly, under ''Independence Qualifications,'' the text ''Rule 1.1(c) of NYSE Arca Equities, Inc.'' in category 1(b) and references to NYSE Arca Equities, Inc. in category 5 would be deleted.[9]

The proposed removal of obsolete references would be consistent with changes made to the independence policy of the board of directors of ICE.[10]

References to SRO Affiliates

NYSE National became an Affiliate SRO in 2017. Accordingly, the Exchange proposes to add ''Person Associated with an ETP Holder'' (as defined in Rule 1.5 of NYSE National, Inc.);'' in category 1(b), and add NYSE National to category 5 under ''Independence Qualifications.'' The changes would be consistent with changes made to the independence policy of the board of directors of ICE.[11]

CHX became an Affiliate SRO in 2018.[12] The Exchange proposes to add a reference to CHX to category 5 under ''Independence Qualifications.'' As CHX does not have terms equivalent to ''allied members'' or ''approved persons,'' the Exchange does not propose to add references to CHX to the clause following ''(collectively, 'Members')'' in category (1)(b). The changes would be consistent with changes made to the independence policy of the board of directors of ICE.[13]

The Exchange proposes to update the link included in footnote 2 and make conforming changes to delete and replace connectors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [14] in general, and with Section 6(b)(1) [15] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[16] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed replacement of lists of individual SRO Affiliates in the Independence Policy with the term ''Exchange'' would contribute to the orderly operation of the Exchange, because use of the term would make the requirements under ''Independence Qualifications'' and ''Listed Companies'' apply to all of the Affiliate SROs, and not just those specifically listed in the Independence Policy. The Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.'' [17] Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the Independence Policy. In addition, the Exchange notes that the proposed change would make the Independence Policy consistent with the governing documents of ICE and the intermediate holding companies between the Exchange and ICE, which use the term ''Exchange.'' Making the terminology used in the governing documents and the Independence Policy more consistent would add clarity and transparency to the Exchange Rules.

For the same reason, the Exchange believes that the proposed replacement of lists of individual SRO Affiliates in the Independence Policy with the term ''Exchange'' would remove impediments to and perfect the mechanism of a free and open market. The changes would simplify and streamline the Exchange's rules while making them more consistent, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Independence Policy and the Exchange Rules.

The Exchange believes that the proposed change would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by (a) removing obsolete references to NYSE allied members and NYSE Arca Equities, Inc., and (b) incorporating NYSE National and CHX into the text of the Independence Policy. The Exchange believes that such changes would add clarity and transparency to the Exchange Rules by removing any confusion that may result if the Independence Policy retained obsolete references or did not encompass all of the Affiliate SROs. For the same reason, the Exchange believes that the proposed amendments to the Independence Policy would remove impediments to and perfect the mechanism of a free and open market and a national market system by

[6] *See* Securities Exchange Act Release No. 82081 (November 15, 2017), 82 FR 55474 (November 21, 2017) (SR–NYSE–2017–57). NYSE Group, Inc. (''NYSE Group'') owns all of the equity interest in the Exchange. In turn, NYSE Group is a wholly-owned subsidiary of NYSE Holdings LLC, which is wholly owned by Intercontinental Exchange Holdings, Inc., which is wholly owned by ICE. ICE is a public company listed on the NYSE.

[7] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

[8] *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

[9] The reference to NYSE Arca Equities, Inc. in category 2 would be deleted and replaced with ''each Exchange,'' as proposed above.

[10] *See* Securities Exchange Act Release No. 83342 (May 30, 2018), 83 FR 26125 (June 5, 2018) (SR–NYSE–2018–19).

[11] *See* Securities Exchange Act Release No. 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90; SR–NYSEArca–2016–167; SR–NYSEMKT–2016–122).

[12] *See* Securities Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 17, 2017) (SR–CHX–2018–004).

[13] *See* 83 FR 26125, *supra* note 10.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(1).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78c(a)(1).

removing confusion that may result if the Independence Policy retained obsolete references or did not include all of the Affiliate SROs.

The Exchange notes that the proposed change would be consistent with changes made to the independence policy of the board of directors of ICE, and believes that making the Independence Policy more consistent with the ICE policy would add clarity and transparency to the Exchange Rules, allowing persons subject to the Exchange's jurisdiction, regulators, and investors to more easily navigate and understand the Exchange Rules, contributing to the orderly operation of the Exchange. The Exchange further believes that the proposed changes would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Independence Policy to (a) streamline references to ICE subsidiaries that are national securities exchanges, (b) remove obsolete references, and (c) add references to NYSE National and CHX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2018–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2018–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2018–38 and should be submitted on or before September 17, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18428 Filed 8–24–18; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15642 and #15643; NEW MEXICO Disaster Number NM–00062]

Administrative Declaration of a Disaster for the State of NEW MEXICO

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of NEW MEXICO dated 08/15/2018.

Incident: Severe Storms and Flash Flooding.

Incident Period: 07/23/2018 through 07/27/2018.

DATES: Issued on 08/15/2018.

Physical Loan Application Deadline Date: 10/15/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 05/15/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Santa Fe.

Contiguous Counties:

NEW MEXICO: Bernalillo, Los Alamos, Mora, Rio Arriba, San Miguel, Sandoval, Torrance.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	7.220
Businesses Without Credit Available Elsewhere	3.610
Non-Profit Organizations With Credit Available Elsewhere	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.610
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15642 6 and for economic injury is 15643 0.

The States which received an EIDL Declaration # are New Mexico.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 15, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–18451 Filed 8–24–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10519]

Determinations Regarding Use of Chemical Weapons by Russia Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991

AGENCY: Bureau of International Security and Nonproliferation, Department of State.

ACTION: Notice.

SUMMARY: The Department of State, acting under authority delegated to the Secretary of State pursuant to Executive Order 12851, has determined pursuant to Section 306(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 that the Government of the Russian Federation has used chemical weapons in violation of international law or lethal chemical weapons against its own nationals. In addition, the Department of State has determined and certified to Congress pursuant to Section 307(d) of the Act that it is essential to the national security interests of the United States to partially waive the application of the sanctions required under Section 307(a) of the Act with respect to foreign assistance, the licensing of defense articles and services, and the licensing of national security-sensitive goods and technology. The following is a notice of the sanctions to be imposed pursuant to Section 307(a) of the Act, subject to these waivers.

DATES: The determination is effective on August 27, 2018.

FOR FURTHER INFORMATION CONTACT: Pamela K. Durham, Office of Missile, Biological, and Chemical Nonproliferation, Bureau of International Security and Nonproliferation, Department of State, Telephone (202) 647–4930.

SUPPLEMENTARY INFORMATION: Pursuant to Sections 306(a), 307(a), and 307(d) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, as amended (22 U.S.C. Section 5604(a) and Section 5605(a)), on August 6, 2018, the Deputy Secretary of State determined that the Government of the Russian Federation has used chemical weapons in violation of international law or lethal chemical weapons against its own nationals. As a result, the following sanctions are hereby imposed:

1. *Foreign Assistance:* Termination of assistance to Russia under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

The Department of State has determined that it is essential to the national security interests of the United States to waive the application of this restriction.

2. *Arms Sales:* Termination of (a) sales to Russia under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and (b) licenses for the export to Russia of any item on the United States Munitions List.

The Department of State has determined that it is essential to the national security interests of the United States to waive the application of this sanction with respect to the issuance of licenses in support of government space cooperation and commercial space launches, provided that such licenses shall be issued on a case-by-case basis and consistent with export licensing policy for Russia prior to the enactment of these sanctions.

3. *Arms Sales Financing:* Termination of all foreign military financing for Russia under the Arms Export Control Act.

4. *Denial of United States Government Credit or Other Financial Assistance:* Denial to Russia of any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

5. *Exports of National Security-Sensitive Goods and Technology:* Prohibition on the export to Russia of any goods or technology on that part of the control list established under Section 2404(c)(1) of the Appendix to Title 50.

The Department of State has determined that it is essential to the national security interests of the United States to waive the application of this sanction with respect to the following:

License Exceptions: Exports and reexports of goods or technology eligible under License Exceptions GOV, ENC, RPL, BAG, TMP, TSU, APR, CIV, and AVS.

Safety of Flight: Exports and reexports of goods or technology pursuant to new licenses necessary for the safety of flight of civil fixed-wing passenger aviation, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Deemed Exports/Reexports: Exports and re-exports of goods or technology pursuant to new licenses for deemed exports and reexports to Russian nationals, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy

for Russia prior to enactment of these sanctions.

Wholly-Owned U.S. Subsidiaries: Exports and reexports of goods or technology pursuant to new licenses for exports and reexports to wholly-owned U.S. subsidiaries in Russia, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Space Flight: Exports and reexports of goods or technology pursuant to new licenses in support of government space cooperation and commercial space launches, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Commercial End-Users: Exports and reexports of goods or technology pursuant to new licenses for commercial end-users civil end-uses in Russia, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

SOEs/SFEs: Exports and reexports of goods or technology pursuant to new licenses for Russian state-owned or state-funded enterprises will be reviewed on a case-by-case basis, subject to a ''presumption of denial'' policy.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place for at least one year and until further notice.

Christopher A. Ford,

Assistant Secretary of State, International Security and Nonproliferation.

[FR Doc. 2018–18503 Filed 8–24–18; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment To Dispose of 4.68 Acres of Airport Land at Houlton International Airport, Houlton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Town of Houlton to dispose of 4.68 acres of land. The parcel is located within the airport industrial park as is not needed for aeronautical purposes. There is adequate developable area on the airport to meet the future twenty year need for projected activity. The airport will obtain fair market value for the disposal of the land and the income derived from this disposal will be placed in the airport's operation and maintenance funds for the facility.

DATES: Comments must be received on or before September 26, 2018.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 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.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on November 20, 2017.

Gail Lattrell,

Acting Director, ANE–600.

[FR Doc. 2018–18512 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Procedures for Non-Federal Navigation Facilities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collected is necessary to ensure that operation and maintenance of these non-Federally owned facilities is in accordance with FAA safety standards.

DATES: Written comments should be submitted by October 26, 2018.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913.

SUPPLEMENTARY INFORMATION: The collection involves the compilation of:

- Commissioning data, such as the initial standards and tolerances parameters for the aerial navigation aids (NavAids) and electrical/electronic facilities, owned and operated by non-Federal sponsors;
- Maintenance activities and operational history, such as outages and repairs, for facilities owned and operated by non-Federal sponsors; and
- The facilities' periodically verified parameters for the life of the facility.

OMB Control Number: 2120–0014.

Title: Procedures for Non-Federal Navigation Facilities.

Form Numbers: FAA Form 6000–10; FAA Form 6000–8; FAA Form 6030–1.

Type of Review: Renewal of an information collection.

Background: Title 14 CFR part 171 establishes procedures and requirements for non-Federal sponsors, (''non-Federal sponsors'' refers to entities such as state and local governments, businesses, and private citizens) to purchase, install, operate, and maintain electronic NavAids for use by the flying public, in the National Airspace System (NAS). Part 171 describes procedures for receiving permission to install a facility and requirements to keep it in service. Documenting the initial parameters during commissioning is necessary to have a baseline to reference during future inspections. Another requirement is recording maintenance tasks, removal from service, and any other repairs performed on these facilities in on-site logs to have an accurate history on the performance of the facility. In addition, at each periodic inspection, recording the facilities' current parameters provides performance information for the life of the facility. Records must be kept on site and the FAA must receive copies of the logs.

Respondents: Approximately 2,600 non-Federal navigation facilities—no more than 2,600 respondents.

Frequency: Information is collected (submitted to Inspectors) on occasion.

Estimated Average Burden per Response: 13.72 hours per year.

- Form 6000–10, 1.72 hours per response
- Form 6000–8, 30 minutes per response
- Form 6030–1, 30 minutes per response

Estimated Total Annual Burden: Approximately 36,000 hours per year.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 22, 2018.

Robin Darden,

Management Support Specialist, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–18504 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification of Airmen for the Operation of Light-Sport Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This collection involves the submission of forms and other reporting and recordkeeping activities. The information to be collected is necessary to ensure compliance with regulations governing the manufacture and certification of light-sport aircraft, the training and certification of light-sport pilots and instructors, and the certification of light-sport aircraft Designated Pilot Examiners.

DATES: Written comments should be submitted by October 26, 2018.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov*; phone: 940–594–5913.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0690.

Title: Certification of Airmen for the Operation of Light-Sport Aircraft.

Form Numbers: FAA form 8130–15, 8710–11, 8710–12.

Type of Review: Renewal.

Background: On July 27, 2004, the FAA published a final rule, Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft (69 FR 44771). That rule generated a need for new designated pilot examiners and designated airworthiness representatives to support the certification of new light-sport aircraft, pilots, flight instructors, and ground instructors.

This information collection requires applicants for certification as sport pilots to complete FAA form 8710–11, log training, take and pass a knowledge test, and requires organizations to develop and maintain training courses for sport pilots. The total of sport pilot applicants is estimated to be 500, with a burden of 3,400 hours. In addition, applications for certification as sport pilot instructors are required to take and pass a knowledge test, submit to a flight review, and purchase a training course. This affects an estimated 40 applicants, with a total annual burden of 120 hours.

This collection also requires light-sport aircraft owners and manufacturers to submit FAA form 8130–15, which is used to process an applicant's request to obtain a Special Airworthiness certificate for Light Sport Aircraft. FAA Airworthiness inspectors and designated inspectors review the required data submissions to determine that aviation products and their manufacturing facilities comply with ASTM requirements, and that the products have no unsafe features. The FAA estimates that approximately 297 respondents are required to complete FAA form 8130–15, with a total annual burden of 99 hours.

Finally, this collection requires applicants for the authorities and privileges of Designated Pilot Examiners to submit FAA form 8710–12, Light-Sport Standardization Board-Designated Pilot Examiner Candidate Application. The FAA uses the form to obtain essential information concerning the applicants' professional and personal qualifications, and to screen and select the designees who act as representatives of the Administrator in performing various certification and examination functions. The FAA estimates a total of 20 respondents per year, with a total annual burden of 10 hours.

Respondents: Manufacturers, aircraft owners, pilots, flight instructors with a sport pilot rating, and maintenance personnel.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Applicants for certification as sport pilots: 500 applicants; approximately 7 hours per applicant. Applicants for certification as sport pilot instructors: 40 applicants; approximately 3 hours per applicant. Applicants for Special Airworthiness Certificate for Light-Sport Aircraft: 297 applicants; approximately ⅓ hour per response. Applicants for certification as Designated Pilot Examiners: 20 applicants; approximately ½ hour per response.

Estimated Total Annual Burden: Sport pilot applicants: 3,400 hours. Sport pilot instructor applicants: 120 hours. Special Light-Sport Airworthiness certification applicants: 99 hours. Designated Pilot Examiner applicants: 10 hours. *Total burden:* 3,629.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 22, 2018.

Robin Darden,

Management Support Specialist, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–18505 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2018–0004]

Surface Transportation Project Delivery Program; Florida DOT Audit #1 Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years to ensure the State's compliance with program requirements. This is the first audit of the Florida Department of Transportation's (FDOT) performance of its responsibilities under the Surface Transportation Project Delivery Program (National Environmental Policy Act (NEPA) assignment program). This notice finalizes the findings of the first audit report for the FDOT's participation in accordance to FAST Act requirements.

FOR FURTHER INFORMATION CONTACT: Ms. Marisel Lopez Cruz, Office of Project Development and Environmental Review, (202) 493–0356, *marisel.lopez-cruz@dot.gov,* or Mr. David Sett, Office of the Chief Counsel, (404) 562–3676, *david.sett@dot.gov,* Federal Highway Administration, Department of Transportation, 61 Forsyth Street 17T100, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov*.

Background

The Surface Transportation Project Delivery Program (or NEPA Assignment Program) allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. This provision has been codified at 23 U.S.C. 327. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities, in lieu of FHWA. The FDOT published in the *Florida Administrative Register* its application for assumption under the NEPA Assignment Program on April 15, 2016, and made it available for public comment for 30 days. After considering public comments, FDOT submitted its application to FHWA on May 31, 2016. The application served as the basis for developing the memorandum of understanding (MOU) that identifies the responsibilities and obligations FDOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on November 1, 2016, with a 30-day comment period to solicit the views of the public and Federal agencies. After the end of the comment period, FHWA and FDOT considered comments and proceeded to execute the MOU. Effective December 14, 2016, FDOT assumed FHWA's responsibilities under NEPA, and the responsibilities for reviews under other Federal environmental requirements.

Section 327(g) of Title 23, United States Code, requires the Secretary to conduct annual audits during each of the first 4 years of State participation. After the fourth year, the Secretary shall monitor the State's compliance with the written agreement. The results of each audit must be made available for public comment. This notice finalizes the finding of the first audit report for the FDOT participation in accordance to FAST Act requirements. A draft version of this report was published in the **Federal Register** on April 18, 2018, at 83 FR 17216, and was available for public review and comments. The FHWA received three responses to the **Federal Register** Notice during the public comment period for this draft report. None of comments were substantive; one from the American Road and Transportation Builders Association voiced support of this program and another was anonymous that was unrelated to this report. The remaining comments came from FDOT. The Audit Team met with FDOT to discuss their comments throughout the Audit report development. The FHWA considered FDOT's comments not to be substantive but nonetheless revised the report language in several instances. This notice includes a final version of the audit report that addresses all comments submitted on the draft audit report.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; Public Law 114–94; 23 U.S.C. 327; 49 CFR 1.85; 23 CFR 773.

Brandye L. Hendrickson,

Deputy Administrator, Federal Highway Administration.

FINAL

Surface Transportation Project Delivery Program

FHWA Audit #1 of the Florida Department of Transportation

December 2016 to May 2017

Executive Summary

This is the first audit of the Florida Department of Transportation's (FDOT's) performance of its responsibilities under the Surface Transportation Project Delivery Program (National Environmental Policy Act (NEPA) assignment program). Under the authority of 23 U.S.C. 327, FDOT and Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on December 14, 2016, whereby FHWA assigned and FDOT assumed FHWA's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for transportation projects in Florida.

The FHWA formed a team in January 2017 to conduct an audit of FDOT's performance according to the terms of the MOU. The Audit Team held internal meetings to prepare for an on-site visit to the Florida Division and FDOT offices. Prior to the on-site visit, the Audit Team reviewed FDOT's NEPA project files, FDOT's response to FHWA's pre-audit information request (PAIR), and FDOT's Self-Assessment Summary Report of its NEPA program. The Audit Team conducted interviews with FDOT and resource agency staff and prepared preliminary audit results from October 16 to 20, 2017. The Audit Team presented these preliminary observations to FDOT Office of Environmental Management (OEM) leadership on October 20, 2017.

Upon accepting the NEPA assignment responsibilities, FDOT updated its procedures and processes as required by the MOU. Overall, the Audit Team found that FDOT is committed to establishing a successful NEPA program. This report describes several successful practices, three observations, and one non-compliance observation. The FDOT has carried out the responsibilities it has assumed in keeping with the intent of the MOU and FDOT's Application. Through this report, FHWA is notifying FDOT of one non-compliance observation that requires FDOT to take corrective action. By addressing the observations in this

report, FDOT will continue to assure a successful program.

Background

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation entails the need to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the first audit in Florida. Following this audit, FHWA will conduct three annual audits. The second audit report will include a summary discussion that describes progress since the last audit.

Scope and Methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). An audit generally is defined as an official and careful examination and verification of accounts and records, especially of financial accounts, by an independent unbiased body. With regard to accounts or financial records, audits may follow a prescribed process or methodology and be conducted by ''auditors'' who have special training in those processes or methods. The FHWA considers this review to meet the definition of an audit because it is an unbiased, independent, official and careful examination and verification of records and information about FDOT's assumption of environmental responsibilities.

The Audit Team consisted of NEPA subject matter experts from the FHWA offices in Juneau, Alaska, Denver, Colorado, Columbus, Ohio, Washington, District of Columbia, Atlanta, Georgia, Austin, Texas, as well as staff from the FHWA Florida Division. The diverse composition of the team, as well as the process of developing the review report and publishing it in the *Federal Register*, are intended to make this audit an unbiased official action taken by FHWA.

The Audit Team conducted a careful examination of FDOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of FDOT's project files. Other documents, such as the June 2017 six-month status update report from FDOT, the August 2017 PAIR responses, and FDOT's September 2017 Self-Assessment Summary Report, informed this review. The Audit Team interviewed FDOT staff and resource agency staff. This review is organized around six NEPA assignment program elements: program management, documentation and records management, quality assurance/quality control (QA/QC), legal sufficiency, performance measurement, and training program. In addition, the Audit Team considered three cross-cutting focus areas: (1) Engineering Analysis within the NEPA process; (2) Archaeological and Historical Resources; and (3) Protected Species and Habitat.

The Audit Team defined the timeframe for highway project environmental approvals subject to this first audit to be between December 2016 and May 2017, when 209 projects were approved. The team drew both representative and judgmental samples totaling 77 projects from data in FDOT's online file system, Statewide Environmental Project Tracker (SWEPT). In the context of this report, Type 1 CE and Type 2 CE are consistent with FDOT's Project Development and Environmental Manual. The FHWA judgmentally selected all Type 2 categorical exclusions (CEs) (3 projects), all reevaluations (12 projects), all Environmental Assessments (EAs) with Findings of No Significant Impacts (FONSIs) (3 projects), all Environmental Impact Statements (EISs) with Records of Decision (RODs) (no projects fell into this category), and all Type 1 CE projects completed under 23 CFR 771.117(d) CEs (9 projects). Fifty randomly selected project files came from the remaining 182 Type 1 CEs completed under 23 CFR 771.117(c), applying a 90 percent confidence level and a 10 percent margin of error to the sample. The Audit Team reviewed projects in all FDOT's seven districts.

The Audit Team submitted a PAIR to FDOT that contained 55 questions covering all 6 NEPA assignment program elements. The FDOT responses to the PAIR were used to develop specific follow-up questions for the on-site interviews with FDOT staff.

The Audit Team conducted a total of 42 interviews. Interview participants included staff from four of FDOT's seven district offices—District 1 (Bartow), District 2 (Lake City), District 5 (Deland), and District 7 (Tampa)—and FDOT Central Office. The audit team interviewed FDOT environmental staff, middle management, and executive management, regional representatives from the U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), and the State Historic Preservation Officer (SHPO) from the Florida Department of State, Division of Historic Resources.

The Audit Team compared the procedures outlined in FDOT policies and environmental manuals (including the published 2016 Project Development & Environment (PD&E) Manual) to the information obtained during interviews and project file reviews to determine if there are discrepancies between FDOT's performance and documented procedures. Individual observations were documented during interviews and reviews and combined under the six NEPA Assignment Program elements. The audit results are described below by program element.

Overall Audit Opinion

The Audit Team recognizes that FDOT is in the early stages of the NEPA Assignment Program and FDOT's programs, policies, and procedures may still be in the process of being incorporated into its program statewide. The FDOT's efforts have been focused on establishing and refining policies, procedures and guidance documents; establishing the SWEPT tracking system for ''official project files''; training staff; establishing a QA/QC Plan; and conducting a self-assessment for monitoring compliance with the assumed responsibilities. The FDOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and FDOT's Application. By addressing the observations in this report, FDOT will continue to assure a successful program.

Non-Compliance Observation

A non-compliance observation is an instance where the Audit Team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations.

The Audit Team identified one non-compliance observation during this first audit.

Observations and Successful Practices

Observations are items the Audit Team would like to draw FDOT's attention to, which may improve processes, procedures, and/or outcomes. The Audit Team identified three observations in this report. Successful practices are practices that the Audit Team believes are successful, and

encourages FDOT to consider continuing or expanding those programs in the future. The Audit Team identified several successful practices in this report. All six MOU program elements are addressed here as separate discussions.

The Audit Team acknowledges that sharing the draft audit report with FDOT allows the Agency to begin implementing corrective actions to improve the program. The FHWA will also consider the status of these observations as part of the scope of Audit #2.

Program Management

Successful Practices

The Audit Team learned that FDOT has maintained its good working relationship with the three resource agencies interviewed—USFWS, USACE, SHPO. Each agency stated that FDOT coordinated any changes in their program with the Agency to ensure satisfaction with their regulatory requirements.

Observation 1: FDOT environmental commitment documentation and tracking

The Audit Team noted in interviews and project file reviews that FDOT's environmental commitments were inconsistently documented and tracked. During the interviews, OEM and district staff indicated inconsistencies in how commitment compliance is accomplished in FDOT and the function and use of the Project Commitment Record (PCR) Form. District staff have developed different tools than the PCR to track commitment compliance. Both the Self-Assessment Summary Report and project file reviews indicated that commitments were not being included verbatim into the Commitments Section of some NEPA documents or reevaluations. The Audit Team noted that commitments are not consistently transferred onto PCR forms for tracking through the various phases of project development. The Audit Team encourages FDOT to implement the commitment compliance recommendations identified in their 2017 Self-Assessment Summary Report to address this observation.

Observation 2: FDOT Program level coordination to address MOU requirements

During the audit interviews, though it has not had occasion to do so, FDOT stated they would implement new Federal statutory requirements or U.S. Department of Transportation (DOT) regulations, without FHWA consultation. This approach may establish FDOT policy or guidance in advance of FHWA, which could conflict with any subsequent DOT/FHWA issued policy or guidance. If such a conflict should occur, FDOT would then need to change their policies and procedures to meet the DOT/FHWA guidance. According to MOU subpart 5.2.1 FDOT may not establish policy and guidance on behalf of the DOT Secretary or FHWA for highway projects covered in the MOU. The FHWA met with FDOT to discuss its need for informed decision making necessary for new Federal requirements. The FDOT clarified that they intended to consult with FHWA in order to gain information on emerging policy and guidance in order to make informed decisions.

Quality Assurance/Quality Control

Successful Practices

The FDOT has implemented several successful practices to ensure the quality of its NEPA documents. As an example of a successful QC practice, one district developed a checklist to provide better quality control in making sure they were uploading the necessary information into SWEPT for project review and coordination. As they received comments from OEM, the district adjusted their checklist so that future projects would also benefit from the OEM comments.

Observation 3: FDOT's approach to QA could be broadened and made more responsive

The FDOT QA/QC Plan identified only the Self-Assessment as FDOT's QA tool. The FDOT Self-Assessment considered five focus areas for compliance: commitments; ponds; species and habitat; QA/QC; and Type 1 CE projects. Both FHWA and FDOT reviewed the same 27 projects (exclusive of Type I CEs completed under 23 CFR 771.117(c)) and identified a similar number of projects with documentation issues for the focus areas in common (commitments and species and habitat). However, the Audit Team identified additional project documentation or compliance issues not identified by FDOT. While FHWA acknowledges that FDOT has employed quality assurance as a corrective action to address missing information for projects, FDOT's obligation under the MOU is that its QA/QC process identify and address the full range of compliance obligations it has assumed. Though concentrating on focus areas is appropriate for a Self-Assessment Summary Report, FDOT's QA overall process should be broader in scope in order to identify and correct any deficiencies. The FHWA met with FDOT to discuss FDOT's approach to QA. The FDOT clarified that they have other quality assurance tools in addition to the Self- Assessment. The FHWA will include a consideration of FDOT's quality assurance tools in its next audit review.

Legal Sufficiency

The Audit Team's review of FDOT's legal sufficiency program found that FDOT has structured the legal sufficiency process for the NEPA Assignment Program by having in house counsel as well as being able to contract with outside counsel who have NEPA experience. Because FDOT is in the early stages of implementation, no legal sufficiency determinations have been made during the audit time frame.

Successful Practices

The FDOT Office of General Counsel (OGC) is fully engaged in the NEPA process. Legal staff participate in monthly coordination meetings and topic specific meetings with OEM and the districts. They also review other documents as requested for legal input. There is close collaboration throughout the process among OGC, OEM, the districts, and districts' attorneys.

Based on the information provided, the FDOT OGC is adequately staffed to provide management and oversight of the NEPA assignment process. In addition, FDOT attorneys located in each of the seven districts provide supplemental support to the dedicated NEPA OGC staff as needed.

Training Program

Successful Practices

The Audit Team learned through interviews that employee training is a corporate priority at FDOT. The FDOT's training is considered a successful practice in four respects:

First, FDOT developed its own on-line NEPA Assignment training. These succinct Web-based training videos address new NEPA assignment processes, including performance measures, the FHWA audit process, QA/QC, and the FDOT self-assessment process. Such training contributes to a consistent understanding of and participation in these aspects of the NEPA Assignment Program among all FDOT staff.

Second, FDOT provides employees ample training opportunities. Employees are notified of those opportunities through training coordinators and the Learning Curve system, which provides a library of courses. The training helps FDOT employees understand new roles and responsibilities and is available as

needed. In preparation for NEPA Assignment, OEM also provided several in-person sessions for the districts. The training was recorded and is available online.

Third, FDOT employees are required to have an Individual Training Plan (ITP). The plan includes required subject matter courses and courses that promote development of technical and leadership skills.

Finally, training is integrated into employee performance evaluations and employees' ITPs are discussed with supervisors on an annual basis, thereby emphasizing the importance of training and promoting compliance with training requirements. Completion of training is incorporated into the employees' and supervisors' performance evaluations.

Performance Measures

The FDOT presented a discussion of their performance measures that implement those listed in MOU Section 10.2 in the July 2017 revision of their QA/QC Plan. In that discussion, FDOT developed several sub-measures along with performance targets, responsible parties, relevant processes, and desired outcomes identified (see Appendix A of the Plan- *http://www.fdot.gov/environment/sched/files/APPROVED-FDOT-OEM_QAQC-Plan_-Dec222017-revised2017-0712.pdf*). This plan also identifies FDOT's method of performance monitoring using SWEPT as well as how OEM will, when needed, take corrective action to improve performance.

The FDOT Self-Assessment Summary Report contained the results of FDOT's first report of its assessment of the NEPA Assignment Program and FDOT procedures compliance. This assessment, for the period between December 14, 2016, and April 30, 2017, entailed review of project files as well as results from a survey of Agency satisfaction. The report also included a discussion of FDOT's progress in attaining performance results.

Successful Practices

The FDOT has demonstrated it has taken an active interest in developing, monitoring, and implementing the performance measures as required by the MOU. In reviewing Section 3 of the FDOT Self-Assessment Summary Report, the Audit Team noted that FDOT is the first NEPA assignment State to create a training module on performance measures. This module, available to all FDOT staff, explains performance metrics, how the measures are computed in SWEPT, performance monitoring, and how the measures appear in FDOT's annual Self-Assessment Summary Report. During the interviews, FDOT's leadership indicated that they wanted performance measures to account for, objectively measure, and use quantitative data to support, FDOT performance. They also made it clear that FDOT is measuring something worthwhile and plans to revisit the performance metrics over time.

Documentation and Records Management

The SWEPT has been identified as FDOT's project file of record, in which FDOT maintains approved reevaluations, CEs, EAs, and EISs. The Electronic Review and Comments (ERC) system is an internal tool to capture review and comments on the environmental documents. During the audit interviews, FDOT staff indicated only final documents are maintained in the SWEPT system. The Audit Team has full access to SWEPT but has no access to ERC.

Successful Practices

- The FHWA commends FDOT's use of the ERC system to document internal review and comments on NEPA documents and to maintain a record of the disposition of those comments.
- The FDOT's statewide implementation of SWEPT as the administrative file of record used for decision making and documenting compliance with the NEPA process facilitated the Audit Teams review of project files. The following features are particularly notable:
- The date-stamping of data in SWEPT is used for performance measurement tracking.
- The SWEPT, with its Bates stamping ability, facilitates administrative records and open records request compilations.
- The June 2017 SWEPT update includes Type 1 CE ''smartforms'' which provide internal controls that increases certainty of NEPA compliance.

Non-Compliance Observation 1: Some FDOT project files contain insufficient documentation to support the environmental analysis or decision

Both the MOU (subpart 10.2.1) and FDOT's PD&E Manual specify that documentation is needed to support compliance. The Audit Team observed that 47 of the 77 project files reviewed did not have sufficient documentation in SWEPT to support the environmental analysis or NEPA decision. The FDOT Self-Assessment reached similar conclusions, and identified 9 of 36 projects having insufficient documentation. The Audit Team could not determine if the discrepancy indicated documentation had not been uploaded into SWEPT or if the required process had not been completed. The team provided a list of these projects along with a draft of this report to FDOT for their review and comment. The FDOT provided their comments on this report, but did not provide additional information to clarify whether documentation was not uploaded or a required process was not completed. The FHWA discussed FDOT's comment on this non-compliance observation and the State acknowledged an issue with project documentation. The FDOT indicated that they would share the updated details regarding the 47 project files and they were already implementing corrective actions to address this issue.

The FDOT has committed to comply with all applicable environmental review requirements to highway projects it has assumed and to maintain documentation of this compliance. The file review of projects, most, but not all, of which were processed with a CE, identified the following deficiencies in supporting documentation: 1) missing or outdated technical documents referenced in the NEPA document; 2) using FDOT standard specifications for Endangered Species Act compliance instead of conducting consultation when species are known to be present, missing documentation of consultation, missing impacts analysis, missing documentation which concludes with a finding, and missing concurrence documentation from applicable agencies; 3) missing documentation of Section 106 consultation; 4) missing or incorrect documentation for fiscal constraint (for several levels of documents including Type 1 CEs); 5) missing environmental commitments identified in technical reports, and commitments not carried forward in reevaluations; 6) missing Section 4(f) impacts/avoidance analysis; 7) missing documentation to support floodplain effects finding; 8) missing documentation to support the wetlands finding; 9) missing documentation for Essential Fish Habitat consideration; 10) missing documentation of community and other resources impacts when addressing ROW changes; and, 11) missing documentation of water quality considerations.

The FDOT has informed the Review Team that they have implemented some corrective actions to address missing documentation. The FDOT staff interviews revealed that the SWEPT system was updated to include a control to not allow a project file review to be completed without uploading all

supporting documentation. The FDOT believes that this system improvement will ensure that supporting documentation, which was sometimes missing as SWEPT was initially implemented, would now be present prior to an approval point. The implementation of these improvements was incorporated after the audit project file review time frame.

Finalizing this Report

The FHWA received three responses to the Federal Register Notice during the public comment period for this draft report. None of comments were substantive; one from the American Road and Transportation Builders Association voiced support of this program and another was anonymous that was unrelated to this report. The remaining comments came from FDOT. The Audit Team met with FDOT to discuss their comments throughout the Audit report development. The FHWA considered FDOT's comments not to be substantive but nonetheless revised the report language in several instances. This notice includes a final version of the audit report that addresses all comments submitted on the draft audit report.

[FR Doc. 2018–18476 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0029]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that by a letter dated March 15, 2018, the Maryland Transit Administration (MTA–MARC), the Illinois Department of Transportation (IDOT), and the California Department of Transportation (Caltrans), have jointly petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238, *Passenger Equipment Safety Standards*. FRA assigned the petition docket number FRA–2018–0029.

Specifically, Petitioners request relief from 49 CFR 238.131 and 238.133, pertaining to the exterior side door safety system interface with the Siemens SC–44 diesel-electric locomotives to be used in passenger service, when operating in a lite consist (locomotives only). Petitioners found that in daily operation, the by-pass switch for the door safety system must be put into ''by-pass'' to operate the locomotive lite, causing an operational constraint for daily servicing, maintenance, inspection, and fueling. The repeated unsealing and resealing of the by-pass switch may cause premature failure of the switch. MARC and Siemens worked jointly to develop a proposed ''Yard Mode'' solution, which monitors the door summary circuit trainline, along with other trainlines and locomotive operating parameters, determining whether the locomotive is operating in a lite consist or a passenger car consist. When ''Yard Mode'' is activated, it allows low speed (10 miles per hour or less) operation of the locomotive without placing the door by-pass device in by-pass. The ''Yard Mode'' solution relies on a multi-step software verification, along with multiple deliberate acts and confirmations by an operator, to enable the system.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 11, 2018 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.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–18496 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0066]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a letter dated April 11, 2018, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 227. FRA assigned the petition Docket Number FRA–2018–0066.

In its petition, BNSF asked FRA to waive compliance with 49 CFR 227.109 to allow employees certified under 49 CFR part 240 and/or part 242 to exceed 1,095 days between audiometric tests if they meet the hearing acuity timelines of 49 CFR 240.217 and/or 242.201. Specifically, BNSF asked FRA to allow employees subject to part 240 and/or part 242 audiometric testing requirements to go up to 1,460 days between audiometric tests to alleviate the confusion of having multiple hearing test requirements for part 240 and 242 certified employees (testing requirements under parts 240 and/or 242 as well as under part 227).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's

(DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FRA reserves the right to issue relief in this docket pending consideration of any comments received in response to this notice. Comments received after September 26, 2018 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 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–18499 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–28613]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that by a letter dated June 18, 2018, the San Francisco Bay Railroad (SFBR), formerly doing business as LB Railco, has petitioned the Federal Railroad Administration (FRA) for a renewal of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223, *Safety glazing standards—locomotives, passenger cars and cabooses*. FRA assigned the petition docket number FRA–2007–28613.

Specifically, SFBR requests relief for SFBR No. 23, an Alco S–2 diesel electric switcher locomotive built in 1945. The locomotive has its original glass in the cab, consisting of 13 separate windows. SFBR 23 has been operating for the past 73 years in and around the same area of San Francisco, and the glass has remained intact without damage. SFBR maintains 5 miles of Class 1 track with a maximum allowable speed of 10 miles per hour.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 11, 2018 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.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–18494 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Meeting Notice—U.S. Maritime Transportation System National Advisory Committee

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of advisory committee public meeting.

SUMMARY: The Maritime Administration (MARAD) announces a public meeting of the U.S. Maritime Transportation System National Advisory Committee (MTSNAC) to discuss advice and recommendations for the U.S. Department of Transportation on issues

related to the marine transportation system.

DATES: The meeting will be held on Wednesday, September 12, 2018 from 1:00 p.m. to 5:00 p.m. and Thursday, September 13, 2018 from 9:30 a.m. to 4:30 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meetings will be held at the DOT Conference Center at the U.S. Department of Transportation Headquarters, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Amanda Rutherford, Designated Federal Officer, at *MTSNAC@dot.gov* or at (202) 366–1332. Please visit the MTSNAC website at *http://www.marad.dot.gov/ports/marine-transportation-system-mts/marine-transportation-system-national-advisory-committee-mtsnac/*.

SUPPLEMENTARY INFORMATION: The MTSNAC is a Federal advisory committee that advises the U.S. Secretary of Transportation and the Maritime Administrator on issues related to the marine transportation system. The MTSNAC was originally established in 1999 and mandated in 2007 by the Energy Independence and Security Act of 2007. The MTSNAC operates in accordance with the provisions of the Federal Advisory Committee Act (FACA).

Agenda

The agenda will include: (1) Welcome, opening remarks, and introductions; (2) brief remarks by the Maritime Administrator or Deputy Maritime Administrator; (3) administrative items; (4) updates to the Committee on subcommittee work; (5) development of work plans and proposed recommendations; and (6) public comments.

Public Participation

The meeting will be open to the public. Members of the public who wish to attend in person must RSVP to *MTSNAC@dot.gov* with your name and affiliation no later than 5:00 p.m. EST on August 27, 2018, in order to facilitate entry. Seating will be limited and available on a first-come-first-serve basis.

Services for Individuals with Disabilities: The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids are asked to notify Amanda Rutherford at (202) 366–1332 or *MTSNAC@dot.gov* at least five (5) business days before the meeting.

Public Comments: A public comment period will commence at approximately 4:00 p.m. on September 12 and 11:45 a.m. on September 13, 2018. To provide time for as many people to speak as possible, speaking time for each individual will be limited to three minutes. Members of the public who would like to speak are asked to contact the Designated Federal Officer via email: *MTSNAC@dot.gov*. Commenters will be placed on the agenda in the order in which notifications are received. If time allows, additional comments will be permitted. Copies of oral comments must be submitted in writing at the meeting or preferably emailed to *MTSNAC@dot.gov*. Additional written comments are welcome and must be filed as indicated below.

Written comments: Persons who wish to submit written comments for consideration by the Committee must email *MTSNAC@dot.gov,* or send them to MTSNAC Designated Federal Officers via email: *MTSNAC@dot.gov,* Maritime Transportation System National Advisory Committee, 1200 New Jersey Avenue SE, W21–307, Washington, DC 20590 no later than August 27, 2018, to provide sufficient time for review.

Authority: 49 CFR part 1.93(a); 5 U.S.C. 552b; 41 CFR parts 102–3; 5 U.S.C. app. Sections 1–16

* * * * *

Dated: August 22, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–18491 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0080; Notice 2]

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Request for public comment on proposed collection of information.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden.

DATES: Comments must be submitted on or before September 26, 2018.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance (NEF–230), National Highway Traffic Safety Administration, West Building, 4th Floor, Room W45–205, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration.

Title: Importation of Vehicles and Equipment Subject to the Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards.

OMB Number: 2127–0002.

Type of Request: Reinstatement of an Expired Collection.

Publication of 60-Day Notice: The **Federal Register** Notice with a 60-day comment period was published on March 2, 2018 (83 FR 9074).

Abstract: The National Highway Traffic Safety Administration (NHTSA) has requested that OMB reinstate the agency's approval of the information collection that is incident to NHTSA's administration of the regulations at 49 CFR parts 591, 592, and 593 that govern the importation of motor vehicles and motor vehicle equipment. The information collection includes declarations that are filed (on the HS–7 Declaration form) with U.S. Customs and Border Protection (CBP) upon the importation of motor vehicles or motor vehicle equipment that is subject to Federal motor vehicle safety, bumper, and theft prevention standards administered by NHTSA. The information collection also includes the Department of Transportation (DOT) conformance bond that is furnished to CBP (on form HS–474) for each motor vehicle offered for importation that does not conform to all applicable Federal motor vehicle safety standards (FMVSS). The bond ensures that such vehicles are brought into conformity with those standards within 120 days from the date of entry or are exported from, or abandoned to, the United States. The information collection also includes paperwork that must be submitted to NHTSA and in some instances retained by registered importers (RIs) of motor vehicles that were not originally manufactured to comply with all applicable FMVSS. These items include information that a person or business entity must submit to NHTSA to be registered as an RI and to retain that status. The paperwork also includes the statement of conformity that an RI must submit to NHTSA following the completion of conformance modifications on an imported nonconforming vehicle to obtain release of the DOT conformance bond furnished for the vehicle at the

time of entry. Also included is the petition that an RI or manufacturer may submit to NHTSA for the agency to decide that a vehicle that was not originally manufactured to comply with all applicable FMVSS is capable of being modified to conform to those standards and is therefore eligible for importation under 49 U.S.C. 30141. The information collection also includes applications that are filed with NHTSA for permission to import nonconforming vehicles for purposes of research, investigations, demonstrations, training, competitive racing events, and show or display, as well as applications requesting that the agency recognize vehicles manufactured for racing purposes as being qualified to be imported as vehicles that were not primarily manufactured for use on public roads, precluding the need for those vehicles to comply with the FMVSS. This information collection is necessary to ensure that motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety, bumper, and theft prevention standards are lawfully imported into the United States and that RIs and applicants for RI status are capable of meeting their obligations under the statutes and regulations governing the importation of nonconforming vehicles.

Affected Public: Individuals and commercial entities that import motor vehicles or motor vehicle equipment subject to the FMVSS and vehicles that are not primarily manufactured for use on public roads, as well as applicants for RI status and existing RIs.

Estimated Total Annual Burden: 252,622 hours; $9,880,590.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Michael A. Cole,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2018–18423 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0062]

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for a defect investigation.

SUMMARY: This is a notice of denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30162, requesting that the Agency commence a proceeding to determine the existence of a defect related to motor vehicle safety in Michelin Model XZU–3, size 305/85/R22.5 Load Range J transit bus tires. After a review of the petition and other information, NHTSA has concluded that a defects investigation is unlikely to result in a finding that a defect related to motor vehicle safety exists, or a NHTSA order for the notification and remedy of a safety related defect as alleged, at the conclusion of the requested investigation.

FOR FURTHER INFORMATION CONTACT: Bruce York, Medium & Heavy Duty Vehicle Division, Office of Defects Investigation, NHTSA, 1200 New Jersey Ave. SE, Washington, DC 20590. Email: *Bruce.York@dot.gov*.

SUPPLEMENTARY INFORMATION: By letter dated July 14, 2016, Paul Koleber from Intercity Transit wrote to NHTSA requesting that the Agency investigate the existence of a defect related to motor vehicle safety in Michelin Model XZU–3, size 305/85/R22.5 Load Range J transit bus tires. Mr. Koleber alleges the tires are structurally unsound and that this defect can result in sidewall blowouts at any time whether the tires are new or re-tread. Mr. Koleber stated that Michelin had previously recalled similar tires (12T–009) and the Intercity Transit fleet experienced failures with the same characteristics as those specified in the recall. Mr. Koleber submitted a forensics lab report from CASE Forensics to support his allegation.

NHTSA has reviewed the material provided by the petitioner and other information. The results of this review and NHTSA's analysis of the petition are set forth in the DP17–001 Evaluation Report, published in its entirety as an appendix to this notice.

For the reasons presented in the DP17–001 Evaluation Report, it is unlikely that a defects investigation will result in a finding that a defect related to motor vehicle safety exists. It is also unlikely that an order for the notification and remedy of a safety-related defect would be issued as a result of granting Mr. Koleber's request. Therefore, the petition is denied. This action does not constitute a finding by NHTSA that a safety related defect does not exist. The Agency will take further action if warranted by future circumstances.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Jeffrey M. Giuseppe,

Associate Administrator for Enforcement.

Nate Seymour
Safety Defects Engineer
NEF–106ns
DP17–001

BASIS:

Paul Koleber, from Intercity Transit petitioned the National Highway Traffic Safety Administration (NHTSA) by letter dated July 14, 2016, requesting that a defect investigation be conducted concerning motor vehicle safety in Michelin Model XZU–3, size 305/85/R22.5 Load Range J transit bus tires. The facts described in this report are based on the Office of Defect Investigations' (ODI) assessment of the information provided by the petitioner and information gathered by ODI from relevant sources.

The petitioner alleged that a defect exists involving the design of tires used in commercial bus operations which have resulted in rapid air loss. The petitioner claimed that failures identical to those described in recall 12T–009 have happened on the subject post recall tires. The petitioner stated that failures occurred on steer and drive wheel positions of both new and retread tires. The petitioner hired a forensics lab to perform scientific failure analysis of failed tires. The lab concluded the tires were of similar design and construction to those in recall 12T–009 and that the failures were caused by corrosion induced degradation of the ply strands.

DESCRIPTION OF TIRE:

The subject tires are Michelin XZU–3, size 305/85/R22.5 Load Range J transit bus tires. They are designed to be

used in all wheel positions for urban operations involving frequent stopping and starting. The tread pattern is non-directional and designed for efficient traction on wet and slippery surfaces through Michelin's patented Matrix Siping technology. The tires have a robust casing and bead design to allow for retreading. The sidewalls are extra thick to resist curb scrub and include scrub depth indicators to aid inspection of the tires to help extend casing life.

OWNER REPORTS:

The Office of Defects Investigation received two (2) complaints related to Michelin XZU–3 transit bus tires. The first Vehicle Owner's Questionnaire (VOQ) was received in April 2012, the same month that voluntary recall 12T–009 was received from Michelin. A second VOQ was received in April 2017, one month after DP17–001 was opened to assess failures on Michelin XZU–3 transit bus tires. Both reports were submitted by transit fleets. Neither VOQ alleged any crashes, injuries or fatalities.

ANALYSIS:

On March 23, 2017, ODI sent Michelin an Information Request letter asking for information related to the subject tires. Michelin's response was received May 5, 2017, where design and application data were presented. ODI's assessment of that data follows.

Michelin reported a tire population (2012–2014 production) of 17,487 subject tires. The subject tire was discontinued in 2014, upon the introduction of the X InCity Z 305/85R22.5 LRJ tire, which offers increased scrub resistance. The initial tread life of the subject tire is expected to range from 60,000 to 100,000 miles. The casing life is expected to range from two (2) to four (4) years, with one (1) to three (3) retread applications. Therefore, a limited number of subject tires are believed to still be in service.

When asked how Michelin determined the recall population for 12T–009, Michelin stated that the bead design of the recalled tires had undergone a design change. A reduction in the number of strands was determined to be the cause of failures associated with recall 12T–009. Once the defect was identified, Michelin reinstated the original bead design specification, which marked the endpoint of the recall population. The scope of the recalled tires included tires manufactured from the date of the bead design change through the date when the design was changed back to the original specification.

The tires identified by the petitioner were produced after the bead design was corrected.

Michelin queried its databases and found no complaints and one claim for property damage on tires manufactured after the 12T–009 recall scope. Michelin denied this claim based on the following. Michelin evaluated twelve (12) tires from the fleet. All had been retreaded one time, but not at a Michelin Retread Technologies (MRT) approved facility. Michelin's analysis of the tires revealed operational or maintenance failures in ten (10) of the twelve (12) tires. These tires had high levels of moisture and damage or evidence of damage repair adjacent to the rupture. The combination of these conditions allows for corrosion to develop in the belt package, which leads to failure. The other two (2) could not be determined. ODI queried its database and found one (1) Vehicle Owner Questionnaire (VOQ) related to the subject population, which was received after the investigation was opened. In March 2017, Michelin visited the fleet that submitted the VOQ, and analyzed its tires. Similar to the property damage claim above, an MRT was not used. Nor was an air dryer for tire inflation. This leaves in question the integrity of the casings and moisture content which is detrimental to tire life. Michelin submitted to ODI, inspection documentation. Reports of the tires showed signs of overloading. Personnel interviews supported these findings as the fleet followed the vehicle manufacturer's recommended inflation pressure, which is known to be inadequate for true operational loads on the specific vehicles operated by the fleet.

MRT facilities utilize inspection equipment not available to out of network retread facilities. The use of Grazing Light Inspection, X-ray, and Casing Integrity Analyzer (CIA) minimize the risk of tire failure after retreading. MRT facilities also utilize approved processes to repair tire damage prior to retreading to prevent moisture from entering the belt package.

The Altoona Bus Study, Michelin's weight study of fleet buses, and ODI's weight study are all in agreement. Each independently found that the Gillig Low Floor 40′ transit bus as used by the petitioner and other fleets would be overloaded with a foreseeable load. And, the greatest overloading would occur at the left rear wheel-end. ODI went further to assess the average passenger weight. ODI found that the 150-pound weight specified in the Code of Federal Regulations (CFR), 49 C.F.R. Part 567.4(g)(3) and Subtitle B-Chapter VI Part 665 Subpart A is not representative of today's population. The 150-pound value was established in 1971 based on data derived from the National Health Examination Survey from 1960–1962. A more recent value from the National Center for Health Statistics determined the average male and female weight to be 195 and 165 respectively. In both cases, the study participants were not truck/bus drivers or transit passengers. ODI notes that a luggage allowance for each passenger is necessary given the vehicle usage. ODI also surveyed heavy vehicle manufacturers to learn what design weight they use for the driver. Responses ranged from 150 to 312 pounds depending on market. The Federal Transit Authority (FTA) initiated a Notice of Proposed Rulemaking (NPRM) action in 2011, to increase the average passenger weight and standing passenger floor space square footage, but this rule was never enacted.

As required by 49 CFR part 567, the vehicle manufacturer is responsible for the data on the vehicle certification label. The manufacturer will set the tire pressure based on the anticipated axle load. The anticipated loads will drive the selection of components to meet the owner's specifications.

Michelin released a Technical Bulletin in November 2015, recommending 120 psi be used in all subject tires. Michelin met with Gillig in January 2016, and recommended the use of 315/80R22.5 tires and an inflation pressure of 120 psi to provide sufficient load-carrying capacity to support actual loads. Gillig, who produced the petitioner's buses, elected not to adopt this action.

CONCLUSION:

Based on the available information and previous agency experience, ODI believes the tires manufactured after those identified in recall 12T–009 failed as a result of overloading by the fleets operating the buses. In our view, a defects investigation is unlikely to result in a finding that a defect related to motor vehicle safety exists, or a NHTSA order for the notification and remedy of a safety related defect as alleged, at the conclusion of the requested investigation. Therefore, given a thorough analysis of the potential for finding a safety related defect in the vehicle, and in view of NHTSA's enforcement priorities and its previous investigations into this issue, the petition is denied. This action does not constitute a finding by NHTSA that a safety related defect does not exist. The

Agency will take further action if warranted by future circumstances.

RECOMMENDATION:

Deny the petition.

CONCUR:

Bruce York, Chief
Medium and Heavy Duty Vehicle Defects & Assessment Division

[FR Doc. 2018–18506 Filed 8–24–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2018–0024]

Mutual Savings Association Advisory Committee and Minority Depository Institutions Advisory Committee

AGENCY: Office of the Comptroller of the Currency, Department of the Treasury (OCC).

ACTION: Request for nominations.

SUMMARY: The OCC is seeking nominations for members of the Mutual Savings Association Advisory Committee (MSAAC) and the Minority Depository Institutions Advisory Committee (MDIAC). The MSAAC and the MDIAC assist the OCC in assessing the needs and challenges facing mutual savings associations and minority depository institutions, respectively. The OCC is seeking nominations of individuals who are officers and/or directors of federal mutual savings associations, or officers and/or directors of federal stock savings associations that are part of a mutual holding company structure, to be considered for selection as MSAAC members. The OCC also is seeking nominations of individuals who are officers and/or directors of OCC-regulated minority depository institutions, or officers and/or directors of other OCC-regulated depository institutions with a commitment to supporting minority depository institutions, to be considered for selection as MDIAC members.

DATES: Nominations must be received on or before October 15, 2018.

ADDRESSES: Nominations of MSAAC members should be sent to *msaac.nominations@occ.treas.gov* or mailed to: Michael R. Brickman, Deputy Comptroller for Thrift Supervision, 400 7th Street SW, Washington, DC 20219.

Nominations of MDIAC members should be sent to *mdiac.nominations@occ.treas.gov* or mailed to: Beverly F. Cole, Deputy Comptroller for Compliance Supervision, 400 7th Street SW, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding the MSAAC, Michael R. Brickman, Deputy Comptroller for Thrift Supervision, 400 7th Street SW, Washington, DC 20219; (202) 649–6450; email: *msaac.nominations@occ.treas.gov*.

For inquiries regarding the MDIAC, Beverly F. Cole, Deputy Comptroller for Compliance Supervision, 400 7th Street SW, Washington, DC 20219; (202) 649–5688; email: *mdiac.nominations@occ.treas.gov*.

SUPPLEMENTARY INFORMATION: The MSAAC and the MDIAC will be administered in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2. The MSAAC will advise the OCC on ways to meet the goals established by section 5(a) of the Home Owners' Loan Act, 12 U.S.C. 1464. The MSAAC will advise the OCC with regard to mutual savings associations on means to: (1) Provide for the organization, incorporation, examination, operation and regulation of associations to be known as federal savings associations (including federal savings banks); and (2) issue charters therefore, giving primary consideration of the best practices of thrift institutions in the United States. The MSAAC will help meet those goals by providing the OCC with informed advice and recommendations regarding the current and future circumstances and needs of mutual savings associations. The MDIAC will advise the OCC on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C. 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The MDIAC will help the OCC meet those goals by providing informed advice and recommendations regarding a range of issues involving minority depository institutions. Nominations should describe and document the proposed member's qualifications for MSAAC or MDIAC membership, as appropriate. Existing MSAAC or MDIAC members may reapply themselves or may be renominated. The OCC will use this nomination process to achieve a balanced advisory committee membership and ensure that diverse views are represented among the membership of officers and directors of mutual and minority institutions. The MSAAC and MDIAC members will not be compensated for their time, but will be eligible for reimbursement of travel expenses in accordance with applicable federal law and regulations.

Dated: August 21, 2018.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2018–18493 Filed 8–24–18; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Multiemployer Pension Plan Application To Reduce Benefits

AGENCY: Department of the Treasury.

ACTION: Notice of availability; Request for comments.

SUMMARY: The Board of Trustees of the Laborers Local 265 Pension Plan, a multiemployer pension plan, has submitted an application to reduce benefits under the plan in accordance with the Multiemployer Pension Reform Act of 2014 (MPRA). The purpose of this notice is to announce that the application submitted by the Board of Trustees of the Laborers Local 265 Pension Plan has been published on the website of the Department of the Treasury (Treasury), and to request public comments on the application from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the Laborers Local 265 Pension Plan.

DATES: Comments must be received by October 11, 2018.

ADDRESSES: You may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site. Electronic submissions through *www.regulations.gov* are encouraged.

Comments may also be mailed to the Department of the Treasury, MPRA Office, 1500 Pennsylvania Avenue NW, Room 1224, Washington, DC 20220, Attn: Danielle Norris. Comments sent via facsimile or email will not be accepted.

Additional Instructions. All comments received, including attachments and other supporting materials, will be made available to the public. Do not include any personally identifiable information (such as your Social Security number, name, address, or other contact information) or any other information in your comment or supporting materials that you do not want publicly disclosed. Treasury will make comments available for public

inspection and copying on *www.regulations.gov* or upon request. Comments posted on the internet can be retrieved by most internet search engines.

FOR FURTHER INFORMATION CONTACT: For information regarding the application from the Laborers Local 265 Pension Plan, please contact Treasury at (202) 622–1534 (not a toll-free number).

SUPPLEMENTARY INFORMATION: MPRA amended the Internal Revenue Code to permit a multiemployer plan that is projected to have insufficient funds to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. In order to reduce benefits, the plan sponsor is required to submit an application to the Secretary of the Treasury, which must be approved or denied in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.

On July 31, 2018, the Board of Trustees of the Laborers Local 265 Pension Plan submitted an application for approval to reduce benefits under the plan. As required by MPRA, that application has been published on Treasury's website at *https://www.treasury.gov/services/Pages/Plan-Applications.aspx*. Treasury is publishing this notice in the **Federal Register**, in consultation with PBGC and the Department of Labor, to solicit public comments on all aspects of the Laborers Local 265 Pension Plan application.

Comments are requested from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the Laborers Local 265 Pension Plan. Consideration will be given to any comments that are timely received by Treasury.

David Kautter,

Assistant Secretary for Tax Policy.

[FR Doc. 2018–18413 Filed 8–24–18; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple CDFI Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 26, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions (CDFI)

Title: Annual Compliance Reports.

OMB Control Number: 1559–XXXX.

Type of Review: New collection (Request for a new OMB Control Number).

Abstract: This collection captures quantitative information from Community Development Financial Institutions Program (CDFI Program) and Native American CDFI Assistance Program (NACA Program) recipients. This information is used to assess: (1) The recipient's activities as detailed in their application materials; (2) the recipient's approved use of the assistance; (3) the recipient's financial condition; and (4) overall compliance with the terms and conditions of the assistance agreement entered into by the CDFI Fund and the recipient.

Forms: CDFI Annual Performance Progress Report (Private Sector), CDFI Annual Performance Progress Report (State, Local, Tribal Governments), CDFI Annual Financial Statement Audit Report (Private Sector), CDFI Annual Financial Statement Audit Report (State, Local, Tribal Governments), CDFI Annual Single Audit Report (Private Sector), CDFI Annual Single Audit Report (State, Local, Tribal Governments).

Affected Public: Businesses or other for-profits, Not-for-profit institutions, and State, Local, and Tribal Governments.

Estimated Total Annual Burden Hours: 858.

Title: Annual Compliance Reports.

OMB Control Number: 1559–0046.

Type of Review: Revision of a currently approved collection.

Abstract: The primary intent of the Annual Certification and Data Collection Report Form is to ensure that Community Development Financial Institutions (CDFI) continue to meet the requirements to be certified CDFIs. It is also an annual method to ensure that organizational information is up-to-date. The financial and portfolio data will be used by the CDFI Fund to gain insight on the CDFI industry. Information provided in these sections will not impact a CDFI's certification status or applications for CDFI Fund programs.

Forms: Annual Certification and Data Collection Report Form.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 8,663.

Title: Disability Funds Financial Assistance Application.

OMB Control Number: 1559–0048.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Consolidated Appropriations Act of 2017 (Act; Pub. L. 115–31) provided the CDFI Fund up to $3 million to provide ''technical and financial assistance to CDFIs that fund projects to help individuals with disabilities.'' The CDFI Fund created the Disability Funds-Financial Assistance (DF–FA) Application in response to this Congressional directive. Furthermore, the Consolidated Appropriations Act of 2018 (Pub. L. 115–141) provided an additional $3 million towards this objective. The CDFI Fund intends to provide DF–FA awards to certified CDFIs with a track record of serving individuals with disabilities. For purposes of the DF–FA awards selection process, Disability will mean a person with a physical or mental impairment that substantially limits one or more major life activities; a person who has a history or record of such an impairment; or a person who is perceived by others as having such an impairment, as defined by the Americans with Disabilities Act (ADA). Applicants selected to receive DF–FA awards will have a demonstrated track record of serving individuals with disabilities, specifically by providing financial products and services and/or development services that have a primary purpose of benefiting

individuals with disabilities. Additionally, successful applicants will demonstrate that they will increase and/or expand their financial products and services, and/or development services, to address the challenges of individuals with disabilities, in areas such as: asset development; affordable, accessible, and safe housing; employment opportunities; and access to assistive products and services that support health and community living. The CDFI Fund will administer DF–FA awards in conjunction with the annual Community Development Financial Institutions Program (CDFI Program) and Native American CDFI Assistance Program (NACA Program) application process.

Forms: 2018–02.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 360.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 22, 2018.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2018–18492 Filed 8–24–18; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on September 25–26, 2018, in Room 6W.306, 425 I Street NW, Washington, DC. On September 25, the session will be from 8:30 a.m. until 5:00 p.m.; and on September 26, the session will be from 9:00 a.m. until 3:30 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On September 25–26, the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be sent to Donald Myers, Director, Facilities Standards Service, Office of Construction & Facilities Management (003C2B), Department of Veterans Affairs, 425 I Street NW, Washington, DC 20001, or emailed to *donald.myers@va.gov*. Because the meeting will be held in a Government building, anyone attending must be prepared to show a valid photo ID. Please allow 15 minutes before the meeting begins for this process. Those wishing to attend or seeking additional information should contact Mr. Myers at (202) 632–5388.

Dated: August 22, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–18518 Filed 8–24–18; 8:45 am]

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