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FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1645]

RIN 7100 AF–34

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

DATES:

Effective date: The amendments to part 201 (Regulation A) are effective January 31, 2019.

Applicability date: The rate changes for primary and secondary credit were applicable on December 20, 2018.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Senior Attorney (202/452–3952), or Sophia Allison, Senior Special Counsel (202/452–3565), Legal Division, or Kristen Payne, Senior Financial Institution & Policy Analyst (202/452–2872), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202/263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

On December 19, 2018, the Board voted to approve a ¼ percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 2.75 percent to 3.00 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by ¼ percentage point as a result of the Board's primary credit rate action, thereby increasing from 3.25 percent to 3.50 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The ¼ percentage point increase in the primary credit rate was associated with an increase in the target range for the federal funds rate (from a target range of 2 to 2¼ percent to a target range of 2¼ to 2½ percent) announced by the Federal Open Market Committee on December 19, 2018, as described in the Board's amendment of its Regulation D published elsewhere in this issue of the **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[1] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[2] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[3] The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, *loans,* grants, benefits, or contracts.''[4]

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A for several reasons. The amendments involve a matter relating to loans and are therefore exempt under the terms of the APA. In addition, the Board has determined that notice, public comment, and delayed effective date would be unnecessary and contrary to the public interest because delay in implementation of changes to the rates charged on primary credit and secondary credit would permit insured depository institutions to profit improperly from the difference in the current rate and the announced increased rate. Finally, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that ''good cause'' exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[5] As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined

[1] 5 U.S.C. 551 *et seq.*

[2] 5 U.S.C. 553(b)(3)(A).

[3] 5 U.S.C. 553(d).

[4] 5 U.S.C. 553(a)(2) (emphasis added).

[5] 5 U.S.C. 603, 604.

that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[6] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 is revised to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.,* 347a, 347b, 347c, 348 *et seq.,* 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[3]

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 3.00 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 3.50 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 20, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–28423 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

[6] 44 U.S.C. 3506; see 5 CFR part 1320, appendix A.1.

[3] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1646]

RIN 7100–AF35

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is amending Regulation D (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (''IORR'') and the rate of interest paid on excess balances (''IOER'') maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 2.40 percent and IOER is 2.40 percent, a 0.20 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee'').

DATES:

Effective date: The amendments to part 204 (Regulation D) are effective January 31, 2019.

Applicability date: The IORR and IOER rate changes were applicable on December 20, 2018.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Senior Attorney (202–452–3952), or Sophia Allison, Senior Special Counsel (202–452–3565), Legal Division, or Kristen Payne, Senior Financial Institution & Policy Analyst (202–452–2872), or Laura Lipscomb, Assistant Director (202–912–7964), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (''the Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.[1] Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (''Reserve Bank'').[2] Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[3] Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[4] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[5] Prior to these amendments, Regulation D specified a rate of 2.20 percent for both IORR and IOER.[6]

II. Amendments to IORR and IOER

The Board is amending § 204.10(b)(5) of Regulation D to specify that IORR is 2.40 percent and IOER is 2.40 percent. This 0.20 percentage point increase in the IORR and IOER was associated with an increase in the target range for the federal funds rate, from a target range of 2 to 2¼ percent to a target range of 2¼ to 2½ percent, announced by the FOMC on December 19, 2018, with an effective date of December 20, 2018. The FOMC's press release on the same day as the announcement noted that:

> Information received since the Federal Open Market Committee met in November indicates that the labor market has continued to strengthen and that economic activity has been rising at a strong rate. Job gains have been strong, on average, in recent months, and the unemployment rate has remained low. Household spending has continued to grow strongly, while growth of business fixed investment has moderated from its rapid pace earlier in the year. On a 12-month basis, both overall inflation and inflation for items other than food and energy remain near 2 percent. Indicators of longer-term inflation expectations are little changed, on balance.
>
> Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability. The Committee judges that some further gradual increases in the target range for the federal funds rate will be consistent with sustained expansion of economic activity, strong labor market conditions, and inflation near the Committee's symmetric 2 percent objective over the medium term. The Committee judges that risks to the economic outlook are roughly balanced, but will continue to monitor global economic and financial

[1] 12 U.S.C. 461(b).

[2] 12 CFR 204.5(a)(1).

[3] 12 U.S.C. 461(b)(1)(A) & (b)(12)(A).

[4] See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

[5] See 12 U.S.C. 461(b)(12)(B).

[6] See 12 CFR 204.10(b)(5).

developments and assess their implications for the economic outlook.

In view of realized and expected labor market conditions and inflation, the Committee decided to raise the target range for the federal funds rate to 2¼ to 2½ percent.

A Federal Reserve Implementation note released simultaneously with the announcement stated:

The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on required and excess reserve balances to 2.40 percent, effective December 20, 2018. Setting the interest rate paid on required and excess reserve balances 10 basis points below the top of the target range for the federal funds rate is intended to foster trading in the federal funds market at rates well within the FOMC's target range.

As a result, the Board is amending § 204.10(b)(5) of Regulation D to change IORR to 2.40 percent and IOER to 2.40 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[7] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[8] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[9]

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate increases for IORR and IOER that are reflected in the final amendments to Regulation D were made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to these final amendments to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[10] As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[11] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(5) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(5) The rates for IORR and IOER are:

	Rate (percent)
IORR	2.40
IOER	2.40

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 20, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–28424 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

RIN 3170–AA92

Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official commentary.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending the official commentary that interprets the requirements of the Bureau's Regulation C (Home Mortgage Disclosure) to reflect the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Based on the 2.6 percent increase in the average of the CPI–W for the 12-month period ending in November 2018, the exemption threshold is adjusted to increase to $46 million from $45 million. Therefore, banks, savings associations, and credit unions with assets of $46 million or less as of December 31, 2018, are exempt from collecting data in 2019.

DATES: *Effective date:* This rule is effective January 31, 2019.

Applicability date: This rule is applicable on January 1, 2019, consistent with relevant statutory or regulatory provisions.

FOR FURTHER INFORMATION CONTACT: Monique Chenault, Paralegal Specialist, 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:

[7] 5 U.S.C. 551 *et seq.*

[8] 5 U.S.C. 553(b)(3)(A).

[9] 5 U.S.C. 553(d).

[10] 5 U.S.C. 603, 604.

[11] 44 U.S.C. 3506; see 5 CFR part 1320, appendix A.1.

I. Background

The Home Mortgage Disclosure Act of 1975 (HMDA) [1] requires most mortgage lenders located in metropolitan areas to collect data about their housing related lending activity. Annually, lenders must report their data to the appropriate Federal agencies and make the data available to the public. The Bureau's Regulation C [2] implements HMDA.

Prior to 1997, HMDA exempted certain depository institutions as defined in HMDA (*i.e.,* banks, savings associations, and credit unions) with assets totaling $10 million or less as of the preceding year-end. In 1996, HMDA was amended to expand the asset-size exemption for these depository institutions.[3] The amendment increased the dollar amount of the asset-size exemption threshold by requiring a one-time adjustment of the $10 million figure based on the percentage by which the CPI–W for 1996 exceeded the CPI–W for 1975, and it provided for annual adjustments thereafter based on the annual percentage increase in the CPI–W, rounded to the nearest multiple of $1 million.

The definition of ''financial institution'' in § 1003.2(g) provides that the Bureau will adjust the asset threshold based on the year-to-year change in the average of the CPI–W, not seasonally adjusted, for each 12-month period ending in November, rounded to the nearest $1 million. For 2018, the threshold was $45 million. During the 12-month period ending in November 2018, the average of the CPI–W increased by 2.6 percent. As a result, the exemption threshold is increased to $46 million for 2019. Thus, banks, savings associations, and credit unions with assets of $46 million or less as of December 31, 2018, are exempt from collecting data in 2019. An institution's exemption from collecting data in 2019 does not affect its responsibility to report data it was required to collect in 2018.

II. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), 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.[4] Pursuant to this final rule, comment 2(g)–2 in Regulation C, supplement I, is amended to update the exemption threshold. The amendment in this final rule is technical and non-discretionary, and it merely applies the formula established by Regulation C for determining any adjustments to the exemption threshold. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.[5] At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 31, 2019. The amendment in this final rule is technical and non-discretionary, and it applies the method previously established in the agency's regulations for determining adjustments to the threshold.

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.[6]

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 [7], the agency 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 1003

Banking, Banks, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation C, 12 CFR part 1003, as set forth below:

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

■ 2. In supplement I to part 1003, under *Section 1003.2—Definitions, 2(g) Financial Institution* is revised to read as follows:

Supplement I to Part 1003—Official Interpretations

* * * * *

Section 1003.2—Definitions

* * * * *

2(g) Financial Institution.

1. *Preceding calendar year and preceding December 31.* The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in 2019, the preceding calendar year is 2018 and the preceding December 31 is December 31, 2018. Accordingly, in 2019, Financial Institution A satisfies the asset-size threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)–2 on December 31, 2018. Likewise, in 2020, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than 25 closed-end mortgage loans during either 2018 or 2019.

2. *Adjustment of exemption threshold for banks, savings associations, and credit unions.* For data collection in 2019, the asset-size exemption threshold is $46 million. Banks, savings associations, and credit unions with assets at or below $46 million as of December 31, 2018, are exempt from collecting data for 2019.

3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least 500 open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and

[1] 12 U.S.C. 2801–2810.

[2] 12 CFR part 1003.

[3] 12 U.S.C. 2808(b).

[4] 5 U.S.C. 553(b)(B).

[5] 5 U.S.C. 553(d).

[6] 5 U.S.C. 603(a), 604(a).

[7] 44 U.S.C. 3506; 5 CFR part 1320.

B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)–4 discusses a financial institution's responsibilities during the calendar year of a merger.

4. *Merger or acquisition—coverage for calendar year of merger or acquisition.* The scenarios described below illustrate a financial institution's responsibilities for the calendar year of a merger or acquisition. For purposes of these illustrations, a ''covered institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and ''an institution that is not covered'' means either an institution that is not a financial institution, as defined in § 1003.2(g), or an institution that is exempt from reporting under § 1003.3(a).

i. Two institutions that are not covered merge. The surviving or newly formed institution meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in the offices of the merged institution that was previously covered and is optional for covered loans and applications handled in offices of the merged institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in offices of the previously covered institution that took place prior to the merger. After the merger date, data collection is optional for covered loans and applications handled in the offices of the institution that was previously covered. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the acquired branch office that take place prior to the acquisition. Data collection by the acquired branch office is optional for transactions taking place in the remainder of the calendar year after the acquisition.

iv. Two covered institutions merge. The surviving or newly formed institution is a covered institution. Data collection is required for the entire calendar year of the merger. The surviving or newly formed institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired branch office may be submitted by either institution.

5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least 25 closed-end mortgage loans in each of the two preceding calendar years or at least 500 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)–2 through –4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

6. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a ''bank'' under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

7. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of ''bank'' under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

* * * * *

Dated: December 20, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28373 Filed 1–29–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

RIN 3170–AA94

Fair Credit Reporting Act Disclosures

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), to add a section establishing a maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609. The Bureau is also amending Regulation V to add an appendix setting forth the statutory requirements for determining the maximum allowable charge; announcing the maximum charge for 2019; and preserving a list of historical maximum allowable charges. Historically, the Bureau has published these FCRA annual adjustments as a notice. The Bureau is now codifying those notices and adding a provision to Regulation V to track the FCRA's provisions concerning the annual maximum allowable charge.

DATES: *Effective date:* This rule is effective January 31, 2019.

Applicability date: This rule is applicable on January 1, 2019, consistent with relevant statutory provisions.

FOR FURTHER INFORMATION CONTACT: Seth Caffrey, Senior Counsel; or Monique Chenault, Paralegal Specialist at (202) 435–7700 or *https://reginquiries.consumerfinance.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under section 609 of the FCRA, a consumer reporting agency must, upon a consumer's request, disclose to the consumer information in the consumer's file.[1] Section 612(a) of the FCRA gives consumers the right to a free file disclosure upon request once every 12 months from the nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies.[2] Section 612 of the FCRA also gives consumers the right to a free file disclosure under certain other, specified circumstances.[3] Where the consumer is not entitled to a free file disclosure, section 612(f)(1)(A) of the FCRA provides that a consumer reporting agency may impose a reasonable charge on a consumer for making a file disclosure. Section 612(f)(1)(A) of the FCRA provides that the charge for such a disclosure shall not exceed $8.00 and shall be indicated to the consumer before making the file disclosure.[4]

Section 612(f)(2) of the FCRA also states that the $8.00 maximum amount shall increase on January 1 of each year,

[1] 15 U.S.C. 1681g.

[2] 15 U.S.C. 1681j(a).

[3] 15 U.S.C. 1681j(b)–(d). The maximum allowable charge announced by the Bureau does not apply to requests made under Section 612(a)–(d) of the FCRA. The charge does apply when a consumer who orders a file disclosure has already received a free annual file disclosure and does not otherwise qualify for an additional free file disclosure.

[4] 15 U.S.C. 1681j(f)(1)(A).

based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.[5] Such increases are based on the Consumer Price Index for All Urban Consumers (CPI–U), which is the most general Consumer Price Index and covers all urban consumers and all items.

Prior to 2011, the Federal Trade Commission (FTC) set the maximum allowable charge under section 612(f) of the FCRA (the ''annual adjustment''). The FTC set these amounts by issuing a notice rather than by issuing a rule. In 2011, the responsibility for setting the maximum allowable charge transferred from the FTC to the Bureau pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[6] Consistent with the FTC's historical practice, the Bureau has continued to publish the FCRA annual adjustment as a notice.[7] To underscore for stakeholders that the FCRA annual adjustment amount is legally binding, the Bureau is now issuing a final rule to add a provision to Regulation V (Fair Credit Reporting) to codify a maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609 and to announce the annual maximum allowable charge.

II. 2019 Annual Adjustment

For 2019, the ceiling on allowable charges under section 612(f) of the FCRA will be $12.50. The Bureau is using the $8.00 amount set forth in section 612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the ceiling on reasonable charges for certain disclosures made under section 609 of the FCRA. Since the effective date of section 612(a) was September 30, 1997, the Bureau calculated the proportional increase in the CPI–U from September 1997 to September 2018. The Bureau then determined what modification, if any, from the original base of $8.00 should be made effective for 2019, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2018, the CPI–U increased by 56.59 percent from an index value of 161.2 in September 1997 to a value of 252.439 in September 2018. An increase of 56.59 percent in the $8.00 base figure would lead to a figure of $12.53. However, because the statute directs that the resulting figure be rounded to the nearest $0.50, the maximum allowable charge is $12.50. The Bureau therefore determines that the maximum allowable charge for the year 2019 will be $12.50.

III. Legal Authority and Effective Date

The Bureau issues this rule pursuant to its authority under the FCRA and the Dodd-Frank Act. Effective July 21, 2011, section 1061 of the Dodd-Frank Act[8] transferred to the Bureau the rulemaking and certain other authorities of the FTC and the prudential regulators relating to the enumerated consumer laws, including most rulemaking authority under the FCRA.[9] Likewise, section 1088 of the Dodd-Frank Act made conforming amendments to the FCRA, transferring rulemaking authority under much of the FCRA to the Bureau.[10] As amended by the Dodd-Frank Act, the FCRA generally authorizes the Bureau to issue regulations ''as may be necessary or appropriate to administer and carry out the purposes and objectives of [the FCRA], and to prevent evasions thereof or to facilitate compliance therewith.'' [11] Additionally, FCRA section 612(f)(2) specifically directs the Bureau to annually modify the maximum allowable charge for consumer file disclosures based on changes to the Consumer Price Index.[12]

This final rule is effective on January 31, 2019.

IV. Administrative Procedure Act (APA)

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). The annual adjustment to the maximum allowable charge under section 612(f) of the FCRA is technical, routine, and nondiscretionary: Each year, the Bureau takes the $8.00 figure set forth in the statute and applies the adjustment formula also set forth in the statute to arrive at the maximum allowable charge. The annual adjustment to the maximum allowable charge merely codifies the result of the calculation prescribed by Congress. The amendments to Regulation V are also technical. The new regulatory text and appendix track the FCRA. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except: (1) A substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). As mentioned above, the annual adjustment and the amendments to Regulation V are technical. The amendments codify the language of the FCRA, and the annual adjustment merely applies the statutory method for adjusting the maximum allowable charge and follows the statutory directive to make the annual adjustment each year.

V. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where general notice of proposed rulemaking is not required.[13] As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this rule. Accordingly the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

VI. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. According to the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays currently a valid control number assigned by OMB. The information requested by Regulation V has been previously approved by OMB and assigned OMB control number 3170–0002. It expires on 08/31/2020. The Bureau has determined that the revisions to this Policy do not introduce

[5] 15 U.S.C. 1681j(f)(2).

[6] Public Law 111–203, section 1088, 124 Stat. 2086 (2010).

[7] 77 FR 20011 (Apr. 3, 2012); 77 FR 74831 (Dec. 18, 2012), 78 FR 79410 (Dec. 30, 2013); 79 FR 74068 (Dec. 15, 2014); 80 FR 72711 (Nov. 20, 2015); 81 FR 81745 (Nov. 18, 2016); 82 FR 53481 (Nov. 16, 2017).

[8] Public Law 111–203, 124 Stat. 2035 (2010).

[9] Section 1002(12)(F) of the Dodd-Frank Act designates most of the FCRA as an ''enumerated consumer law.'' Public Law 111–203, 124 Stat. 1957 (2010).

[10] Public Law 111–203, 124 Stat. 2086 (2010).

[11] Public Law 11–203, section 1088(a)10)(E), 124 Stat. 2090 (2010) (codified at 15 U.S.C. 1681s(e).

[12] 15 U.S.C. 1681j(f)(2).

[13] 5 U.S.C. 603(a), 604(a).

any new or substantively or materially revised collections of information beyond what has been previously approved by OMB.

VII. 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 1022

Banks, Banking, Consumer protection, Credit unions, Fair Credit Reporting Act, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations, State member banks.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

PART 1022—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 1022 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c–1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s–2, 1681s–3, and 1681t; Sec. 214, Public Law 108–159, 117 Stat. 1952.

Subpart O—Miscellaneous Duties of Consumer Reporting Agencies

■ 2. Section 1022.141 is added to read as follows:

§ 1022.141 Reasonable charges for certain disclosures.

Pursuant to section 612(f) of the FCRA, 15 U.S.C. 1681j(f), the charge imposed by a consumer reporting agency for a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, shall not exceed the maximum allowable charge set by the Bureau.

■ 3. Appendix O is added to read as follows:

Appendix O to Part 1022—Reasonable Charges for Certain Disclosures

Section 612(f) of the FCRA, 15 U.S.C. 1681j(f), directs the Bureau to increase the maximum allowable charge a consumer reporting agency may impose for making a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents. The Bureau will publish notice of the maximum allowable charge each year by amending this appendix. For calendar year 2019, the maximum allowable charge is $12.50. For historical purposes:

1. For calendar year 2012, the maximum allowable disclosure charge was $11.50.
2. For calendar year 2013, the maximum allowable disclosure charge was $11.50.
3. For calendar year 2014, the maximum allowable disclosure charge was $11.50.
4. For calendar year 2015, the maximum allowable disclosure charge was $12.00.
5. For calendar year 2016, the maximum allowable disclosure charge was $12.00.
6. For calendar year 2017, the maximum allowable disclosure charge was $12.00.
7. For calendar year 2018, the maximum allowable disclosure charge was $12.00.
8. For calendar year 2019, the maximum allowable disclosure charge is $12.50.

Dated: December 21, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28372 Filed 1–29–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

[Docket No. CFPB–2018–0034]

RIN 3170–AA62

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending its rule that specifies the time period for which adjusted civil penalty amounts would be applied to conduct within its jurisdiction and is also adjusting specific civil penalty amounts in that rule to account for inflation. On June 14, 2016, the Bureau issued an interim final rule (IFR) to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). On October 12, 2018, the Bureau sought notice and comment on a proposed amendment to the IFR to specify that the adjusted civil penalties only apply to assessments whose associated violations occurred on, or after, November 2, 2015 (the date the 2015 Inflation Adjustment Act amendments were signed into law). This rule finalizes the IFR and proposed amendment; it also adjusts for inflation the maximum amount of each civil penalty within the Bureau's jurisdiction.

DATES: This rule is effective on January 31, 2019.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990,[1] as amended by the Debt Collection Improvement Act of 1996 [2] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act),[3] directs Federal agencies to adjust for inflation the civil penalty amounts within their jurisdiction not later than July 1, 2016, and then not later than January 15 every year thereafter.[4] Each agency was required to make the 2016 one-time catch-up adjustments through an interim final rule published in the **Federal Register**. On June 14, 2016, the Bureau published its interim final rule (IFR) to make the initial catch-up adjustments to civil penalties within the Bureau's jurisdiction.[5] The June 2016 IFR created a new part 1083 and in § 1083.1 established the inflation-adjusted maximum amounts for each civil penalty within the Bureau's jurisdiction.[6] The Bureau received no comments in response to the IFR, which became effective on July 14, 2016.

The Inflation Adjustment Act also requires subsequent adjustments to be made annually and notwithstanding section 553 of the Administrative Procedure Act (APA).[7] The Bureau annually adjusted its civil penalty

[1] Public Law 101–410, 104 Stat. 890.

[2] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

[3] Public Law 114–74, section 701, 129 Stat. 584, 599.

[4] 28 U.S.C. 2461 note. Section 1301(a) of the Federal Reports Elimination Act of 1998, Public Law 105–362, 112 Stat. 3293, also amended the Inflation Adjustment Act by striking section 6, which contained annual reporting requirements, and redesignating section 7 as section 6, but did not alter the civil penalty adjustment requirements.

[5] 81 FR 38569 (June 14, 2016). Although the Bureau was not obligated to solicit comments for the interim final rule, the Bureau invited public comment and received none.

[6] *See* 12 CFR 1083.1.

[7] Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

amounts, as required by the Act, through rules issued in January 2017 and January 2018.[8]

Specifically, the Act directs Federal agencies to adjust annually each civil penalty provided by law within the jurisdiction of the agency by the ''cost-of-living adjustment.'' [9] The ''cost-of-living adjustment'' is defined as the percentage (if any) by which the Consumer Price Index for all-urban consumers (CPI–U) for the month of October preceding the date of the adjustment, exceeds the CPI–U for October of the prior year.[10] The Director of the Office of Management and Budget (OMB) is required to issue guidance (OMB Guidance) every year by December 15 to agencies on implementing the annual civil penalty inflation adjustments. Pursuant to the Inflation Adjustment Act and OMB Guidance, agencies must apply the multiplier reflecting the ''cost-of-living adjustment'' to the current penalty amount and then round that amount to the nearest dollar to determine the annual adjustments.[11] The adjustments are designed to keep pace with inflation so that civil penalties retain their deterrent effect and promote compliance with the law.[12]

In 2017, OMB issued guidance stating that, ''[f]or the 2018 annual adjustment, the new penalty amounts should apply to penalties assessed after the effective date of the 2018 annual adjustment—which will be no later than January 15, 2018—including, if consistent with agency policy, assessments whose associated violations occurred on, or after, November 2, 2015'' (*i.e.,* the date the 2015 Amendments were signed into law).[13]

On October 12, 2018, the Bureau proposed to finalize the IFR consistent with the 2017 OMB Guidance. Specifically, the Bureau proposed to revise § 1083.1(b) to provide that the adjustments in paragraph (a) of the section shall apply to civil penalties assessed after January 15, 2019, whose associated violations occurred on or after November 2, 2015. The Bureau received one relevant comment, from an individual commenter, which was supportive of the proposal. This rule makes final the 2016 IFR with language consistent with the 2017 OMB Guidance.

For the 2019 annual adjustment, the multiplier reflecting the ''cost-of-living adjustment'' is 1.02522.[14] Pursuant to the Inflation Adjustment Act and OMB Guidance, the Bureau multiplied each of its civil penalty amounts by the ''cost-of-living adjustment'' multiplier and rounded to the nearest dollar.[15]

The new penalty amounts that apply to civil penalties assessed after January 31, 2019, are as follows:

Law	Penalty description	Penalty amounts established under 2018 final rule	OMB ''cost-of-living adjustment'' multiplier	New penalty amount
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A).	Tier 1 penalty	$5,639	1.02522	$5,781
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B).	Tier 2 penalty	28,195	1.02522	28,906
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C).	Tier 3 penalty	1,127,799	1.02522	1,156,242
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Per violation	1,964	1.02522	2,014
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Annual cap	1,963,870	1.02522	2,013,399
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).	Per failure	92	1.02522	94
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).	Annual cap	184,767	1.02522	189,427
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(2)(A).	Per failure, where intentional	185	1.02522	190
SAFE Act, 12 U.S.C. 5113(d)(2)	Per violation	28,474	1.02522	29,192
Truth in Lending Act, 15 U.S.C. 1639e(k)(1)	First violation	11,279	1.02522	11,563
Truth in Lending Act, 15 U.S.C. 1639e(k)(2)	Subsequent violations	22,556	1.02522	23,125

II. Legal Authority

The Bureau issues this final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990,[16] as amended by the Debt Collection Improvement Act of 1996 [17] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[18] which requires the Bureau to adjust for inflation the civil penalties within its jurisdiction according to a statutorily prescribed formula.

III. Administrative Procedure Act

A. Notice and Comment

Under the APA, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable,

[8] 82 FR 3601 (Jan. 12, 2017); 83 FR 1525 (Jan. 12, 2018).

[9] Inflation Adjustment Act sections 4 and 5, *codified* at 28 U.S.C. 2461 note.

[10] Inflation Adjustment Act sections 3 and 5, *codified* at 28 U.S.C. 2461 note.

[11] Inflation Adjustment Act section 5, *codified* at 28 U.S.C. 2461 note; *see also* Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 14, 2018), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.*

[12] *See* Inflation Adjustment Act section 2, *codified* at 28 U.S.C. 2461 note.

[13] Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget, at 4 (Dec. 15, 2017), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf.* OMB's guidance issued in December 2016 *(https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-11_0.pdf)* contained similar language.

[14] Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 14, 2018), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.*

[15] In rounding to the nearest dollar, the Bureau has rounded down where the digit immediately following the decimal point is less than 5 and has rounded up where the digit immediately following the decimal point is 5 or greater.

[16] Public Law 101–410, 104 Stat. 890.

[17] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

[18] Public Law 114–74, section 701, 129 Stat. 584, 599.

unnecessary, or contrary to the public interest.[19] The Bureau so finds with respect to the annual adjustment portion of the amendments in § 1083.1(a). These adjustments to the civil penalty amounts are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts. These adjustments are required by the Inflation Adjustment Act. Moreover, the Inflation Adjustment Act directs agencies to adjust civil penalties annually notwithstanding section 553 of the APA,[20] and OMB Guidance reaffirms that agencies need not complete a notice-and-comment process before making the annual adjustments for inflation.[21] For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary with respect to the annual inflation adjustment portion of this rulemaking. Therefore, that portion of the amendment is adopted in final form without public comment.

As noted above, the Bureau sought notice and comment to finalize the IFR with amended language in § 1083.1(b) to specify that the adjusted civil penalties only apply to assessments whose associated violations occurred on, or after, November 2, 2015 (the date the 2015 amendments to the Inflation Adjustment Act were signed into law).

B. Effective Date

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.[22]

At a minimum, the Bureau believes the annual adjustments to the civil penalty amounts in § 1083.1(a) fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 31, 2019. The amendments to § 1083.1(a) in this final rule are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts and follow the statutory directive to make annual adjustments each year. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,[23] and OMB Guidance reaffirms that agencies need not provide a delay in effective date for the annual adjustments for inflation.[24]

The amendment to § 1083.1(b), to finalize the IFR with language to specify that the adjusted civil penalties only apply to assessments whose associated violations occurred on, or after, November 2, 2015 (the date the 2015 amendments to the Inflation Adjustment Act were signed into law), similarly satisfies the requirements of section 553(d) and thus may become effective on January 31, 2019. Because the amendment limits penalties that potentially could have been assessed, it relieves a restriction against affected parties by potentially decreasing the amount of civil penalties an affected party may have to pay. The Bureau also finds that there is good cause to make this amendment effective on January 31, 2019. The amendment does not establish any requirement but instead ensures that penalties are not assessed in a manner inconsistent with OMB guidance. Effectuating the amendment to § 1083.1(b) on the same day as § 1083.1(a) will also minimize confusion among affected parties as to which penalty amounts apply. The Bureau received no comments on its proposal to make the amendment to § 1083.1(b) effective no sooner than January 15, 2019.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (the RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small nonprofit organizations. The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements. An IRFA or FRFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[25] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[26]

At the proposed rule stage, the Bureau determined that an IRFA was not required because the proposal, if adopted, would not have had a significant economic impact on a substantial number of small entities. No comments were received with respect to that determination. For this final rule, the Bureau continues to believe that that determination is accurate. The rule simply specifies that increased penalty amounts apply only to violations that occurred on or after November 2, 2015, rather than also to violations that occurred prior to November 2, 2015. Because it would limit the civil penalties covered persons may pay, the rule would not impose any additional costs on them. Nor does the rule impose any new, affirmative duty on any small entity or change any existing requirements on small entities, and thus no small entity who is currently complying with the laws that the Bureau enforces will incur any expense from the final rule.

Accordingly, the Bureau's Director, by signing below, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. According to the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays currently a valid control number assigned by OMB. The Bureau has determined that this policy contains no information collections and that the revisions to this Policy do not create any new collections of information.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau

[19] 5 U.S.C. 553(b)(B).

[20] Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

[21] Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 14, 2018), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.*

[22] 5 U.S.C. 553(d).

[23] Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

[24] Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 14, 2018), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.*

[25] *See* 5 U.S.C. 601 *et seq.*

[26] *See* 5 U.S.C. 609.

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 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth above, the Bureau amends 12 CFR part 1083 as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1 is revised to read as follows:

§ 1083.1 Adjustments of civil penalty amounts.

(a) The maximum amount of each civil penalty within the jurisdiction of the Bureau of Consumer Financial Protection to impose is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. 2461 note), as follows:

TABLE 1 TO PARAGRAPH (A)

U.S. Code citation	Civil penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	$5,781
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	28,906
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,156,242
15 U.S.C. 1717a(a)(2)	Per violation	2,014
15 U.S.C. 1717a(a)(2)	Annual cap	2,013,399
12 U.S.C. 2609(d)(1)	Per failure	94
12 U.S.C. 2609(d)(1)	Annual cap	189,427
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	190
12 U.S.C. 5113(d)(2)	Per violation	29,192
15 U.S.C. 1639e(k)(1)	First violation	11,563
15 U.S.C. 1639e(k)(2)	Subsequent violations	23,125

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 31, 2019, whose associated violations occurred on or after November 2, 2015.

Dated: January 6, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–00488 Filed 1–29–19; 4:15 pm]

BILLING CODE 4810–AM–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33–10591; File No. S7–29–18]

RIN 3235–AM42

Conditional Small Issues Exemption Under the Securities Act of 1933 (Regulation A)

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting amendments to Regulation A under the Securities Act of 1933 (the ''Securities Act''). Regulation A provides an exemption from registration under the Securities Act for offerings of securities up to $50 million. As mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act (the ''Economic Growth Act''), the amendments revise Regulation A to permit entities subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (the ''Exchange Act'') to use the exemption and provide that entities meeting the reporting requirements of the Exchange Act will be deemed to have met the reporting requirements of Regulation A. The amendments also make conforming changes to Form 1–A.

DATES:

Effective date: January 31, 2019.

Comment date: Comments regarding the collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 should be received on or before March 4, 2019.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/final.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–29–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–29–18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/final.shtml*). Comments are also 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. 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 you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Charlie Guidry, Staff Attorney, or

Jennifer Zepralka, Office of Small Business Policy, Division of Corporation Finance, at (202) 551–3460.

SUPPLEMENTARY INFORMATION: We are adopting amendments to 17 CFR 230.251 (''Rule 251'') and 17 CFR 230.257 (''Rule 257'') under the Securities Act.[1] We are also amending Form 1–A.[2]

I. Background

Regulation A[3] provides an exemption from the registration requirements of the Securities Act for offers and sales of securities up to $20 million, for Tier 1 offerings, or up to $50 million, for Tier 2 offerings. Under the current rules, Regulation A is not available to companies subject to the ongoing reporting requirements of Section 13 or 15(d) of the Exchange Act. The Economic Growth Act[4] requires that the Commission amend Rule 251 of Regulation A to allow these reporting companies to use the exemption provided by Regulation A. In addition, under Rule 257(b), an issuer that has filed an offering statement for a Tier 2 offering that has been qualified pursuant to Regulation A must file specified periodic and current reports with the Commission. The Economic Growth Act requires that the Commission amend Rule 257, with respect to a Tier 2 offering, to deem a reporting company issuer as having met the periodic and current reporting requirements of Rule 257 if such issuer meets the reporting requirements of Section 13 of the Exchange Act.

II. Rule Amendments

A. Amendments to Regulation A and Form 1–A

As mandated by Section 508 of the Economic Growth Act, we are amending Rule 251 of Regulation A by deleting Rule 251(b)(2), which prohibits companies subject to the ongoing reporting requirements of Section 13 or 15(d) of the Exchange Act from using Regulation A.[5] We also are making conforming changes to Item 2 of Part I of Form 1–A, which lists the issuer eligibility criteria to use such form.[6]

To implement the Economic Growth Act's requirement with respect to Rule 257 reporting obligations, we are adding a new paragraph to Rule 257(b) specifying that the duty to file reports under Rule 257 shall be deemed to have been met if the issuer is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act and, as of each Form 1–K and Form 1–SA due date, has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the 12 months (or such shorter period that the registrant was required to file such reports) preceding such due date. The Economic Growth Act provides that an issuer's Regulation A reporting obligations will be deemed satisfied if the issuer ''meets'' its Exchange Act reporting requirements. To implement this aspect of the statutory mandate, the amendments use a 12-month lookback period consistent with the standard applied in Commission rules in other contexts. Such a lookback period is used, for example, in determining eligibility to use Form S–8[7] and satisfaction of the ''current public information'' requirement of 17 CFR 230.144 (''Rule 144'').[8]

We also are deleting Rule 257(d)(1), which currently provides for an automatic suspension of the duty to file reports under Rule 257 if and so long as the issuer is subject to the duty to file reports required by Section 13 or 15(d) of the Exchange Act. The automatic suspension provision will no longer be necessary in light of the mandated amendment to deem the Rule 257(b) obligation met by Exchange Act reporting.

As a result of these amendments, an Exchange Act reporting company will be eligible to rely upon the Regulation A exemption from registration[9] and, upon qualification of an offering statement for a Tier 2 offering, will become subject to Rule 257(b)'s reporting requirements. So long as the issuer is current in its Exchange Act reporting as of the due dates for periodic reports on Form 1–K and Form 1–SA required under Rule 257(b) (including, as applicable, the due dates for any special financial reports on such forms), its Rule 257 reporting obligation will be deemed to be met. However, if at the relevant Form 1–K or Form 1–SA due date the issuer is not current in its Exchange Act reporting, the issuer's Rule 257 reporting obligation will not be deemed to be met, and at that time the issuer will be required to file Regulation A reports.[10]

In light of the deletion of the automatic suspension provision, we are also amending Rule 257(e) to clarify the operation of the rule if a reporting company issuer that is relying on new Rule 257(b)(6) to deem its Rule 257 reporting obligation met then terminates or suspends its duty to file reports under the Exchange Act in accordance with the Exchange Act and relevant rules thereunder.[11] This revision will not change the operation of Rule 257(e). If an issuer terminates or suspends its reporting obligations under the Exchange Act *and* if the issuer is eligible to suspend its Regulation A reporting obligation under Rule 257(d)(2) by filing a Form 1–Z at that time, then the ongoing reporting obligations under Rule 257 will terminate automatically.[12] No Form 1–Z filing will be required to terminate the issuer's Regulation A reporting obligation. If, on the other hand, the issuer is not eligible to file a Form 1–Z at that time, it will be required to

[1] 15 U.S.C. 77a *et seq.*

[2] 17 CFR 239.90.

[3] 17 CFR 230.251–230.263.

[4] Public Law 115–174, 132 Stat. 1296 (2018).

[5] 17 CFR 230.251(b)(2).

[6] This change to Item 2 of Part I of Form 1–A will be implemented on the eXtensible Markup Language (XML) based fillable form available on EDGAR after the effective date of the amendments. Until such time as the change is implemented, we will not object if an issuer subject to section 13 or 15(d) of the Exchange Act that meets the other listed eligibility criteria checks the box in Item 2.

[7] 17 CFR 239.16b(a).

[8] 17 CFR 230.144(c)(1).

[9] Rule 251(c) provides issuers with a safe harbor that offerings conducted pursuant to Regulation A will not be integrated with prior offers and sales of securities or with certain subsequent offers and sales of securities. *See* 17 CFR 230.251(c). A reporting company issuer contemplating concurrent registered and Regulation A offerings will need to analyze its specific facts and circumstances with regard to integration concerns and the solicitation restrictions arising from each offering type. In addition, a reporting company issuer conducting an offering under Regulation A continues to be subject to the requirements of the Exchange Act. For example, a reporting company that elects to solicit indications of interest in conjunction with a prospective Regulation A offering in reliance on 17 CFR 230.255 (''Rule 255'') remains subject to Regulation FD (17 CFR 244.100–244.102).

[10] Prior to the amendments being adopted in this release, an issuer that was not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act that conducted a Tier 2 Regulation A offering and concurrently registered the class of securities under the Exchange Act would have had its Regulation A reporting obligations suspended, regardless of whether it had remained current in Exchange Act reporting. Under the amendments, such an issuer technically will be subject to both reporting regimes; however, as long as the issuer remains current in its Exchange Act periodic reporting, its Exchange Act reports will be deemed to satisfy its ongoing reporting obligations under amended Rule 257(b).

[11] *See* Exchange Act Section 12(g)(4) and Section 15(d)(1), and 17 CFR 240.12g–4 and 240.12h–3 (''Rules 12g–4 and 12h–3'').

[12] A Tier 2 issuer that has filed all reports required by Regulation A for the shorter of: (1) The period since the issuer became subject to such reporting obligation, or (2) its most recent three fiscal years and the portion of the current year preceding the date of filing Form 1–Z is permitted to immediately suspend its ongoing reporting obligation under Regulation A at any time after completing reporting for the fiscal year in which the offering statement was qualified, if the securities of each class to which the offering statement relates are held of record by fewer than 300 persons (1,200 persons for a bank or bank holding company) and offers or sales made in reliance on a Tier 2 offering statement are not ongoing. *See* Rule 257(d)(2)–(4).

commence its Regulation A reporting with the report covering the most recent financial period after that included in any effective registration statement or a filed Exchange Act report.

Finally, we are making a technical amendment to Rule 251(b)(6) to define the term ''Exchange Act.'' This term had been defined in Rule 251(b)(2), which is being deleted.

B. Implementation Guidance

Because we are limiting the rule amendments adopted in this release to those necessary to implement the Economic Growth Act's mandate, we are providing the following guidance to clarify the operation of our rules in the context of a Regulation A offering by an Exchange Act reporting company.

1. Financial Statements to be Provided in Form 1–A

In both Tier 1 and Tier 2 offerings, issuers are required to file financial statements for the two previous fiscal years (or such shorter time that they have been in existence).[13] Tier 1 and Tier 2 issuers have different form and content requirements for their financial statements. Part F/S of Form 1–A permits Tier 1 issuers to follow the requirements set out in Part F/S, rather than the requirements in Regulation S–X.[14] In contrast, Tier 2 issuers are required to follow 17 CFR 210.8–01 through 210.8–08 (''Article 8 of Regulation S–X''), as if the issuer were a smaller reporting company conducting a registered offering on Form S–1, except the age of financial statements may follow the Part F/S requirements.

Another difference between the two tiers is in the audit requirements for such financial statements. In a Tier 1 offering, the financial statements are not required to be audited, although paragraph (b)(2) of Part F/S states that: (i) If an issuer has already obtained an audit of its financial statements for other purposes, (ii) if that audit was performed in accordance with U.S. Generally Accepted Auditing Standards (''U.S. GAAS'') or the standards of the Public Company Accounting Oversight Board (''PCAOB''), and (iii) if the auditor was independent pursuant to the standards of either 17 CFR 210.2–01 (''Rule 2–01 of Regulation S–X'') or of the American Institute of Certified Public Accountants, then those audited financial statements must be filed. The financial statements in a Tier 2 offering are required to be audited in accordance with either U.S. GAAS or the standards issued by the PCAOB, and the report and qualifications of the independent accountant must comply with the requirements of 17 CFR 210.2–01 through 210.2–07 (''Article 2 of Regulation S–X''). The accounting firm conducting the audit for any audited financial statements included in an offering circular may, but need not, be registered with the PCAOB.

We are not at this time amending the requirements of Part F/S. Exchange Act reporting companies using Regulation A are therefore required, at a minimum, to include in the Form 1–A financial statements for the two previous fiscal years (or such shorter time that they have been in existence), prepared in accordance with the form and content requirements of Part F/S.[15] Similarly, with respect to the age of financial statements required in a Form 1–A, we are not amending the age requirement applicable to Regulation A offerings at this time.[16] However, under 17 CFR 230.252 (''Rule 252 of Regulation A''), issuers must include in an offering statement ''any other material information necessary to make the required statements, in light of the circumstances under which they are made, not misleading.'' [17] Therefore, if at the time a reporting company issuer files a Form 1–A (or when the offering statement is qualified), it has made publicly available more recent audited or reviewed financial statements prepared in accordance with the standard required for the issuer's Exchange Act reports, including such financial statements in the offering statement may be necessary to make the required statements therein, in light of the circumstances under which they are being made, not misleading.

2. New or Revised Accounting Standards

Part F/S of Regulation A permits issuers, where applicable, to delay the implementation of new accounting standards to the extent such standards provide for delayed implementation by non-public business entities, similar to accommodations for emerging growth companies under Section 102(b) of the Jumpstart Our Business Startups Act (''JOBS Act'').[18] This accommodation will continue to be available to issuers that are not reporting companies (*i.e.,* are not ''issuers'' for purposes of the Sarbanes-Oxley Act) [19] at the time of their Regulation A offering. However, it does not apply to a reporting company issuer (including an emerging growth company that did not elect delayed implementation in connection with its initial registration of securities) that is, at the time of the Regulation A offering, subject to the rules that apply to public business entities.

3. Canadian Issuers

Regulation A is available only to companies organized in and with their principal place of business in the United States or Canada. Outside the Regulation A framework, a Canadian company may file reports with the Commission under the Exchange Act multijurisdictional disclosure system (''MJDS''). The MJDS allows eligible Canadian issuers to register securities under the Securities Act and to register securities and report under the Exchange Act by use of documents prepared largely in accordance with Canadian requirements. A Canadian reporting company issuer, whether or not filing under the MJDS, will be deemed to have met its Rule 257 reporting obligations so long as it is current in its applicable Exchange Act reporting obligations. The disclosure requirements for Canadian issuers reporting under the MJDS will continue to be established under home country standards. The other implementation guidance provided in this Section B also applies to Canadian reporting company issuers.

[13] Part F/S of Form 1–A requires consolidated balance sheets, statements of comprehensive income, cash flows and changes in stockholders' equity. In addition, the financial statements must be prepared in accordance with U.S. GAAP (or International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) for Canadian issuers), which requires footnotes.

[14] 17 CFR part 210.

[15] As noted above, under paragraph (b)(2) of Part F/S, a reporting company issuer conducting a Tier 1 offering that has available audited financial statements prepared for other purposes is required to include such audited financial statements in its Form 1–A. As is the case for non-reporting companies, reporting company issuers in either Tier 1 or Tier 2 offerings will not be permitted to incorporate their financial statements by reference into the Form 1–A or any amendment thereto.

[16] Part F/S requires issuers in both Tier 1 and Tier 2 offerings to include financial statements in Form 1–A that are dated not more than nine months before the date of non-public submission, filing, or qualification, with the most recent annual or interim balance sheet not older than nine months. For filings made more than three months but no more than nine months after the end of the issuer's most recently completed fiscal year end, issuers are required to include a balance sheet as of the two most recently completed fiscal year ends. For filings made more than nine months after the end of the issuer's most recently completed fiscal year end, the balance sheet is required to be dated as of the two most recently completed fiscal year ends and an interim balance sheet must be included as of a date no earlier than six months after the end of the most recently completed fiscal year. If interim financial statements are required, they must cover a period of at least six months.

[17] *See* 17 CFR 230.252(a).

[18] Public Law 112–106, 126 Stat. 306.

[19] *See* Section 2(a) of the Sarbanes Oxley Act, 15 U.S.C. 7201(a).

4. Securities ''Held of Record'' for Section 12(g) Purposes

Under 17 CFR 240.12g5–1(a)(7) (''Rule 12g5–1(a)(7)''), Tier 2 securities issued by certain small reporting companies may, subject to certain conditions, be excluded from the count of securities ''held of record'' for purposes of Exchange Act Section 12(g).[20] We are not amending this provision at this time. As a result, securities issued in a Tier 2 offering by an Exchange Act reporting company that meets the requirements of the rule will be excluded from the ''held of record'' count.

C. Future Review

Section 401 of the JOBS Act added Section 3(b)(5)[21] to the Securities Act, which requires the Commission to review the $50 million Tier 2 offering limit not later than two years after enactment of the JOBS Act and every two years thereafter. The Chairman directed the staff to begin the next review in 2019. In connection with such review or in other future rulemaking, the Commission may explore whether additional changes to Regulation A should be made to address the application of the rule to Exchange Act reporting companies, including the topics addressed in Section B of this release.

III. Procedural Matters

The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register** and provide an opportunity for public comment.[22] This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.'' [23]

As discussed above, Section 508 of the Economic Growth Act directs the Commission to amend Rules 251 and 257 of Regulation A to permit entities subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act to use Regulation A and to provide that entities meeting the reporting requirements of the Exchange Act will be deemed to have met the reporting requirements of Regulation A. Because the amendments are necessary to conform Regulation A to the requirements of the Economic Growth Act and involve limited exercise of agency discretion, we find that notice and public comment are unnecessary.[24]

The APA also generally requires that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective.[25] This requirement, however, does not apply if the agency finds good cause for making the rule effective sooner.[26] For the same reasons as we are forgoing notice and comment, we find good cause to make the rules effective immediately upon publication in the **Federal Register**. In addition, we find that the amendments relieve a restriction in our rules.[27]

IV. Economic Analysis

We are mindful of the costs imposed by and the benefits obtained from our rules and amendments.[28] The discussion below addresses the potential economic effects of the amendments, including the likely benefits and costs. The Commission is adopting amendments to implement the specific statutory mandates of Section 508 of the Economic Growth Act. Accordingly, the costs and benefits of the amendments stem almost entirely from the statutory mandates of Section 508.

At the outset, we note that, where possible, we have attempted to quantify the economic effects of the amendments. However, in some cases we are unable to quantify the economic effects. For example, it is difficult to quantify the number of reporting companies that will use Regulation A instead of a registered offering; the extent to which the amendments will attract new issuers; the types of reporting companies that will rely on Regulation A; and the effects of Regulation A's use by reporting companies on the amount and cost of capital raised in the Regulation A market. As we discuss below, the effects of the amendments are likely to be driven by issuers switching from small registered offerings to Regulation A offerings, which may limit the aggregate net economic effects of the amendments. We discuss the potential effects of the amendments relative to the baseline, which includes existing Regulation A requirements and market practices, as well as information about reporting companies and other parties likely to be affected by the amendments.

A. Baseline and Affected Parties

1. Regulation A

As discussed in Section I above, Regulation A is an exemption from registration under the Securities Act that includes two overlapping offering tiers (Tier 1—$20 million limit; Tier 2—$50 million limit) with different requirements. Companies subject to Exchange Act reporting requirements were ineligible to use Regulation A prior to the amendments being adopted in this release.

Regulation A's use has increased in relative terms since the 2015 amendments.[29] However, Regulation A's use remains modest in absolute terms. Between June 19, 2015 (the effective date of the 2015 amendments) and September 30, 2018, there were approximately 260 qualified offerings seeking up to approximately $5.8 billion in the aggregate.[30] In the same period, approximately $1.3 billion in aggregate proceeds was reported to have been raised by 123 issuers.[31] Tier 2 accounted

[20] *See* Rule 12g5–1(a)(7). To take advantage of Rule 12g5–1(a)(7), an issuer must have had, as of the last business day of its most recently completed semiannual period, a public float of less than $75 million or a public float of zero and annual revenues of less than $50 million as of its most recently completed fiscal year. Rule 12g5–1(a)(7) also requires that the issuer is required to file reports pursuant to Rule 257(b) of Regulation A, is current in filing annual, semiannual and special financial reports as of its most recently completed fiscal year end, and has engaged a transfer agent registered pursuant to Section 17A(c) of the Securities Act to perform the function of a transfer agent with respect to the securities.

[21] 15 U.S.C. 77c(b)(5).

[22] *See* 5 U.S.C. 553(b).

[23] *Id.*

[24] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are impractical, unnecessary, or contrary to the public interest, a rule shall take effect at such time as the federal agency promulgating the rule determines). The amendments also do not require analysis under the Regulatory Flexibility Act. *See* 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment).

[25] *See* 5 U.S.C. 553(d).

[26] *Id.*

[27] *Id.*

[28] Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] requires the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

[29] *See* Report to Congress, Access to Capital and Market Liquidity (Aug. 2017), *https://www.sec.gov/files/access-to-capital-and-market-liquidity-study-2017.pdf,* at 49–51.

[30] Offerings are identified based on CIK and file number; offerings that were withdrawn or abandoned are excluded; offerings identified as duplicates are consolidated. Amendments are consolidated with the original offering for purposes of the number of offerings. Rounding affects totals. Dollar amounts sought are based on the maximum offering amounts reported by companies in Parts I and II of Form 1–A.

[31] Capital raised is based on information reported by companies in Forms 1–Z, 1–K, 1–SA, 1–U, and offering circular supplements pertaining to completed and ongoing Regulation A offerings and post-qualification amendments, and for issuers whose shares have become exchange-listed, information from other public sources. Estimates represent a lower bound on the amounts raised given the time frames for reporting proceeds following completed or terminated offerings and

Continued

for most of the Regulation A capital raising activity (approximately 180 qualified offerings seeking up to approximately $5.1 billion with approximately $1.1 billion in aggregate proceeds reported raised by 98 issuers). In other words, Tier 2 accounted for approximately 88% of the amount sought to be raised and approximately 85% of the amount reported to have been raised during this period.

2. Affected Parties

The amendments will affect reporting companies that will be newly eligible to seek financing under Regulation A. We anticipate that the amendments will affect U.S. and Canadian reporting companies seeking to conduct a public offering within the Regulation A offering limit. Among such issuers, the amendments will likely have the most impact on issuers in offerings of securities that fall within Regulation A offering limits and that are not listed on a national securities exchange (because blue sky preemption is available for Tier 2 of Regulation A, but is generally not available for non-exchange-listed securities sold in registered offerings).[32] This may afford issuers additional flexibility in raising capital and lower their costs. Among such issuers, reporting company issuers ineligible for a streamlined registration process on Form S–3 or F–3 may be incrementally more likely to rely on Regulation A (due to incrementally lower preparation costs of Form 1–A). During calendar year 2017, there were approximately 584 reporting companies with registered securities offerings of up to $50 million that may be eligible for Regulation A under the amendments, including approximately 267 of those that were not exchange-listed.[33] Excluding issuers that have used Form S–3 or F–3,[34] there were approximately 326 reporting companies with registered securities offerings of up to $50 million that may be eligible for Regulation A under the amendments, including approximately 215 that were not exchange-listed. In addition, we expect that the amendments may affect past Regulation A issuers that became reporting companies to the extent that such issuers may seek follow-on Regulation A financing. Among issuers in Regulation A offerings that were qualified during calendar year 2017, nine became reporting companies during that period.[35]

The amendments also may affect Regulation A issuers that are not reporting companies to the extent that they compete for capital with reporting companies that are newly eligible for Regulation A. During calendar year 2017, there were approximately 90 issuers in qualified Regulation A offerings, including issuers that later became reporting companies.[36] However, the extent of competition for capital in the Regulation A market may remain unchanged if the amendments draw additional investors to the Regulation A market, as discussed in Section IV.B.3 below.

The flexibility afforded by the amendments may lead some new issuers that are not reporting companies and that have not previously conducted a public offering to seek Regulation A financing or to become a reporting company.

The amendments also will affect Regulation A investors and intermediaries. Data on the number of Regulation A investors is not available to us because this information is not required to be disclosed. Currently very few intermediaries participate in the Regulation A market. Based on Part I of Form 1–A, approximately 30 intermediaries received underwriting or sales compensation or served as promoters or finders in Regulation A offerings qualified during calendar year 2017. The flexibility afforded by the amendments may lead intermediaries that have not previously participated in Regulation A offerings to begin participating in such offerings. Overall, there were approximately 971 registered broker-dealers that reported being underwriters or selling group participants for corporate securities in 2017.[37] Such intermediaries may increase their participation in Regulation A offerings after the amendments.

B. Economic Effects of the Amendments

1. Amendments to Rule 251

Below we discuss the potential economic effects of the amendments to Rule 251(b) that permit companies subject to Exchange Act reporting obligations to rely on Regulation A.

a. Effects on Issuers

Reporting companies that are newly eligible under Regulation A may realize several benefits from the amendments.

First, reporting companies may benefit from the additional flexibility in raising capital permitted under Regulation A. Reporting companies offering securities not listed on a national exchange that use Tier 2 are eligible for blue sky preemption, which can expedite the offering process, allow offerings involving a wider range of reporting companies and offering terms,[38] and enable offers of securities in multiple states to a broader range of investors.[39] However, Regulation A does not permit at-the-market offerings, which may limit the attractiveness of this offering method for some reporting companies.[40]

Second, Regulation A, particularly Tier 2,[41] may also provide additional flexibility with respect to solicitation of investor interest (*i.e.,* ''test-the-waters'' communications), as compared to registered offerings, particularly for reporting companies that either do not qualify as emerging growth companies

given that offerings qualified during the report period may be ongoing. In particular, proceeds in ongoing offerings disclosed in periodic reports of Tier 2 issuers may be amended at a future date. Issuers that report proceeds of zero are excluded from the count. Changes over time in cumulative amounts reported raised may reflect the timing of reporting by the company rather than the time at which the capital was raised, and therefore should not be used to gauge trends in capital raising activity. If an issuer reported proceeds both from a Tier 1 and a Tier 2 offering, that issuer is counted twice (once under Tier 1 and once under Tier 2).

[32] Under Section 18(b)(1) of the Securities Act, securities that are listed or authorized for listing on a national securities exchange are exempt from state securities law registration and qualification requirements. *See* Section 18(b)(1), 15 U.S.C. 77r(b)(1).

[33] The estimate is based on the number of unique issuers with registration statements on Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, and F–10, excluding amendments, declared effective during calendar year 2017 with registration size up to $50 million. Issuers incorporated outside the U.S. and Canada and issuers with SIC code 6770 (denoting blank checks) are excluded. Data is obtained from Intelligize.

[34] *Id.* Issuers that had at least one registration statement on Form S–3 or F–3 declared effective, irrespective of registration size, during calendar year 2017 are excluded.

[35] The number of Regulation A issuers is based on the number of unique filers of Form 1–A or pre-qualification amendments to it that were qualified during calendar year 2017, excluding offerings withdrawn after qualification. Regulation A issuers that became reporting companies are identified based on subsequent exchange listing, effectiveness of registration on Form 8–A, or subsequent filing of Exchange Act reports after the qualification of a Regulation A offering. Given the short period of observation and small number of issuers, it is not possible to conclude whether that period was an outlier.

[36] *Id.*

[37] This estimate is based on Form BD filings as of December 2017. It is not limited to underwriters of small offerings due to data availability reasons.

[38] This would be particularly applicable to issuers offering securities in states with merit review.

[39] Non-accredited investors in Tier 2 offerings of non-exchange-listed securities may invest no more than 10% of the greater of their income or net worth in a given offering. *See* 17 CFR 230.251(d)(2)(i)(C).

[40] *See* Regulation A Adopting Release, 80 FR 21806, 21840 (April 20, 2015) (''Regulation A Adopting Release'').

[41] While Regulation A solicitation provisions are the same for both tiers, blue sky restrictions may limit solicitation before state qualification of a Tier 1 offering. *See* Regulation A Adopting Release, fn. 998.

(EGCs) or that seek to solicit indications of interest from individual or small institutional investors.[42] Subject to certain conditions, Regulation A issuers may solicit indications of interest from any investor before qualification of an offering statement, which may allow issuers to gauge investor interest prior to deciding whether to incur the full cost of the offering. Test-the-waters materials used in conjunction with a Regulation A offering must contain required legends and, should an issuer proceed with an offering, must be publicly filed, and a Preliminary Offering Circular must be available in conjunction with test-the-waters materials used after the public filing of the offering statement.[43] Further, reporting companies that elect to solicit indications of interest in conjunction with a prospective Regulation A offering in reliance on Rule 255 remain subject to Regulation FD. In addition, Regulation A contains a safe harbor from integration of Regulation A offerings with any prior offers or sales of securities, as well as with any subsequent offers or sales of securities registered under the Securities Act.[44] The flexibility to alternate between Regulation A and registered offerings may be particularly valuable for non-exchange-listed issuers, past Regulation A issuers that have become reporting companies but wish to seek follow-on Regulation A financing, and more generally, for other issuers that are uncertain about whether their future financing strategy will rely on Regulation A or registered offerings.

Third, reporting companies may realize legal and compliance cost savings from using Regulation A to raise capital instead of a registered offering. The cost of preparing Form 1–A may be lower than the cost of preparing a registration statement,[45] particularly for issuers ineligible for a streamlined securities registration on Form S–3 or F–3,[46] or under the multijurisdictional disclosure system (MJDS).[47] In addition, because Tier 2 securities of smaller issuers may be conditionally exempt from the number of shareholders of record for purposes of Section 12(g), using Regulation A for new financing may enable issuers to maintain a lower number of shareholders of record, which may make it easier for issuers to deregister under Section 12(g) in the future and suspend Exchange Act reporting.[48] However, for issuers that remain subject to Exchange Act reporting, the incremental effect of using Form 1–A on the overall compliance costs may be relatively small. Unlike a registered offering, a Regulation A offering is not subject to liability under Section 11,[49] which may lower the legal risk and cost associated with the offering. Further, blue sky preemption for Tier 2 of Regulation A may result in legal and compliance cost savings for issuers offering securities not listed on an exchange.[50]

These factors may give reporting companies that seek financing from public markets within the Regulation A offering limit (particularly those that are not exchange-listed) greater flexibility in the process of raising capital, potentially allowing such issuers to incrementally increase the amount of capital raised, or reduce the cost or time associated with raising capital.

Reporting companies that use Regulation A will also incur certain costs. In particular, issuers that rely on the amendments will incur costs to prepare Form 1–A and undertake a Regulation A offering. It is likely that many of the reporting companies using Regulation A under the amendments would have otherwise conducted a registered offering or a private placement. Given the optional nature of the provision, reporting companies are likely to use Regulation A only if they expect the benefits to outweigh the costs.

Finally, if Regulation A use by reporting companies increases (decreases) overall investor interest in the Regulation A market, as discussed in Section IV.B.3 below, the resulting inflow (outflow) of investor capital may indirectly affect all Regulation A issuers, including issuers that are not reporting companies.

b. Effects on Investors

Many of the reporting companies using Regulation A under the amendments may be switching from registered offerings to Regulation A, and the same investors may be investing in their Regulation A securities as would have invested in their registered securities today, which may limit the net aggregate impact of the amendments on investors in public offerings. Nevertheless, the amendments may have an impact on investors if they facilitate some offerings that would not have been conducted either under a registration regime or under the Regulation A regime today. The amendments may also affect investors if provisions specific to reporting company Regulation A offerings affect investor benefits and costs associated with offerings that would have otherwise been conducted either under a registration regime or under a Regulation A regime. We discuss these considerations in greater detail below.

The amendments may yield benefits for some investors in certain circumstances. Investors that currently invest primarily in Regulation A securities may realize incremental

[42] Section 5(d) of the Securities Act allows EGCs to test the waters with qualified institutional buyers and institutional accredited investors without a requirement to file test-the-waters materials. However, EGCs may not solicit other investors under Section 5(d). Non-EGC issuers may not rely on Section 5(d).

[43] *See* 17 CFR 230.255.

[44] *See* 17 CFR 230.251(c). As noted above, a reporting company issuer contemplating concurrent registered and Regulation A offerings will need to analyze its specific facts and circumstances with regard to integration concerns and the solicitation restrictions arising from each offering type, as well as the application of Regulation FD.

[45] The average preparation burden of Form 1–A for purposes of the PRA is 750 hours. The average preparation burden of a registration statement varies depending on registration statement type. For example, the average preparation burden for purposes of the PRA is: 4,104 hours for Form S–4; 783 hours for Form S–11; 1,713 hours for Form F–1; and 1,461 hours for Form F–4. In turn, the average preparation burden for purposes of the PRA is 671 hours for Form S–1. The preparation burden may also vary from issuer to issuer. Average preparation burdens are included on the cover page of each referenced form at *https://www.sec.gov/forms.*

[46] *See* 17 CFR 239.13, 17 CFR 239.33, and *supra* note 34 and accompanying text. For issuers using registration statements on Form S–3 or F–3, the average preparation burden is estimated to be lower than the average preparation burden of Form 1–A. The average preparation burden for purposes of the PRA is 475 hours for Form S–3 and 170 hours for Form F–3. The preparation burden may also vary from issuer to issuer. Average preparation burdens are included on the cover page of each referenced form at *https://www.sec.gov/forms.*

[47] The MJDS allows eligible Canadian issuers to register securities under the Securities Act and to register securities and report under the Exchange Act by use of documents prepared largely in accordance with Canadian requirements. *See https://www.sec.gov/corpfin/cf-manual/topic-16.* The preparation burden of such forms estimated for purposes of the PRA is relatively low: 4 hours for Form F–7; 1 hour for Form F–8; 29 hours for Form F–10; and 2 hours for F–80. The preparation burden may also vary from issuer to issuer. Average preparation burdens are included on the cover page of each referenced form at *https://www.sec.gov/forms.* Based on EDGAR data, approximately 56 Canadian issuers had a registration statement on one of these forms declared effective during calendar year 2017.

[48] *See* 17 CFR 240.12g5–1.

[49] However, under Section 3(b)(2)(D) of the Securities Act, the civil liability provisions of Section 12(a)(2) apply to any person offering or selling securities under Regulation A. Further, antifraud liability provisions in Section 17 of the Securities Act apply to any person who commits fraud in the offer or sale of securities. *See* Regulation A 2015 Adopting Release, fn. 538.

[50] State regulators retain the authority to require the filing with them of any documents filed with the Commission. *See* Regulation A 2015 Adopting Release, fn. 277. Thus, Tier 2 issuers may incur the cost of complying with state notice filing requirements. Further, issuers remain subject to state registration requirements with respect to Tier 1 securities and registered securities not listed on a national securities exchange.

benefits if they begin investing in Regulation A securities of reporting companies due to greater availability of information about Exchange Act reporting companies. Greater availability of information may enable such investors to make better informed investment decisions,[51] as well as lead to more informationally efficient pricing and potentially greater liquidity of Regulation A securities of such issuers compared to other Regulation A issuers.[52]

In addition, existing investors in reporting companies that use Regulation A under the amendments may also benefit if the amendments enable such issuers to increase shareholder value as a result of improved access to capital or a lower cost of capital.

Further, the flexibility afforded to reporting companies under the amendments may make conducting public offerings more attractive overall, compared to conducting private placements, either as a public or as a private company. If the amendments lead to an increase in public offerings (either registered or Regulation A offerings), investors in the aggregate may benefit from the greater level of transparency associated with public offerings, increased secondary market liquidity, and the increased number of investment options, which may enable investors to make more informed decisions and allocate capital more efficiently.

Overall, the aggregate benefits to investors are expected to be more limited if the use of Regulation A by reporting companies is driven by some reporting companies switching from registered offerings to Regulation A or by past Regulation A issuers that become reporting companies continuing to raise Regulation A financing instead of undertaking registered offerings.

We recognize that the amendments may impose potential costs on some investors in Regulation A securities of some reporting companies that would have otherwise invested in registered securities of reporting companies. Specifically, certain features of Regulation A may make it more attractive to some non-exchange-listed reporting companies that have high information asymmetries or that are offering securities with risky and complex payoffs, some of which might not have pursued a registered offering today. In particular, Regulation A offering disclosures are not subject to Section 11 liability; Tier 2 offerings are not subject to state blue sky review or state investor and solicitation restrictions; and Regulation A offerings are generally not subject to the gun-jumping provisions of Section 5(c) due to the ability to test the waters under Rule 255. These differences can impose costs on investors to the extent that information asymmetries may make it more difficult for investors to fully appreciate the risks the investments present. Some investors may off-set these costs, however. For example, some investors anticipating such costs may demand compensation in the form of more attractive offering terms. Additionally, some of these provisions of the amendments could in fact benefit investors by enabling issuers to lower compliance costs.

Potential costs of the amendments to investors may be further mitigated by the following factors: (1) Exchange Act reporting requirements; (2) disclosures required in Regulation A offering statements, which provide information on potential risks of the offering to enable informed investment decisions; (3) the requirement that Regulation A offering statements be qualified by the Commission before any sales can be made; (4) potential liability under Section 12(a)(2) and application of the general antifraud provisions of federal and state securities laws to Regulation A offerings; and (5) Regulation A requirements (*e.g.,* issuer eligibility criteria, offering limits, investment limits for non-accredited investors in Tier 2 offerings of non-exchange-listed securities; and audited financial statement requirements for Tier 2 offerings).[53] In general, the readily observable nature of reporting company status and offering type enables investors concerned about potential risks of reporting company Regulation A offerings to reallocate to other types of offerings.

c. Effects on Intermediaries

The amendments may affect intermediaries in Regulation A offerings. As discussed in Section IV.A.2 above, very few intermediaries presently participate in Regulation A offerings. An increase in the number and types of Regulation A issuers may increase demand for the services of intermediaries in connection with such offerings and potentially attract new intermediaries to the Regulation A market. For example, existing intermediaries participating in small registered offerings may begin to offer Regulation A services to their clients. If the amendments increase the number and range of issuers using Regulation A and thereby increase investor interest in the Regulation A market more generally, intermediaries may realize higher revenue from Regulation A deals, and vice versa.

The availability of Exchange Act reports may facilitate intermediary due diligence. However, if reporting companies that use Regulation A have higher information asymmetries, due diligence costs and effort of intermediaries may not decrease. Due to the voluntary nature of matching between issuers and intermediaries, we expect intermediaries to participate in offerings only when they on average expect benefits to exceed costs.

Overall, however, the extent to which the use of Regulation A by reporting companies is driven by some reporting companies switching from registered offerings to Regulation A is expected to limit the aggregate effects of the amendments on intermediaries. Further, intermediaries may not experience significant effects of the amendments if reporting companies using Regulation A primarily conduct offerings without involving intermediaries.

2. Amendments to Rule 257

Below we consider the economic effects of the amendments to Rule 257. Under the amendments, a Tier 2 reporting company issuer will be deemed to have met its Rule 257(b) reporting obligation if it is current in its Exchange Act reporting as of the due dates for periodic reports on Form 1–K and Form 1–SA required under Rule 257(b). The requirement that a reporting company Regulation A issuer be current in, rather than merely subject to Exchange Act reporting, in order to meet its Rule 257(b) obligations, is expected to encourage more regular periodic disclosures following a reporting company's Regulation A offering. Therefore, this requirement should benefit investors in all classes of securities of reporting company Regulation A issuers by enabling better informed investment decisions, as well as more informationally efficient prices for securities of reporting company Regulation A issuers traded in secondary markets.

Specifying a time period for which Exchange Act reports must have been filed will provide certainty to issuers regarding how to satisfy the requirements of Rule 257(b). The amendments use a 12-month lookback period consistent with the standard applied in Commission rules in other

[51] For example, reporting companies must file quarterly reports and current reports in a broader range of circumstances than required for Tier 2 issuers. In addition, reporting companies are subject to Regulation FD.

[52] *See* Regulation A 2015 Adopting Release, at 21866.

[53] *See* 17 CFR 230.251–230.252.

contexts, including for the determination of eligibility to use Form S–8 and for satisfaction of the ''current public information'' requirement of Rule 144. Use of a standard that is familiar from these other contexts may facilitate compliance by issuers. As an alternative, we could have adopted a longer (shorter) period for purposes of ''meeting'' the Rule 257(b) requirements. Such a longer (shorter) period would have increased (decreased) the incentives for reporting companies to provide more regular period disclosures following a Regulation A offering while also increasing (decreasing) costs incurred by those reporting companies that have previously failed to file Exchange Act reports. As another alternative, we could have required filers to have filed in a timely manner all reports required to be filed during the prior 12 months, consistent with Form S–3 and F–3 requirements.[54] This alternative may benefit investors by incentivizing reporting companies that use Regulation A to provide timely periodic disclosures. However, this alternative may increase costs and decrease the ability of reporting companies that have failed to timely file Exchange Act reports during the lookback period to raise follow-on Regulation A Tier 2 financing. Overall, relative to the amendments, we do not expect the effects of these alternatives to be significant given the other incentives that reporting companies have to remain current in their Exchange Act reports (*e.g.,* greater secondary market liquidity, not being delisted from an exchange or downgraded to a lower OTC market tier, future eligibility for a streamlined registration process, reduced legal liability, and a reputation for transparency).

Prior to the amendments being adopted in this release, an issuer that was not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act that conducted a Tier 2 Regulation A offering and concurrently registered the class of securities under the Exchange Act would have had its Regulation A reporting obligations suspended so long as it was subject to Exchange Act reporting obligations, regardless of whether it had remained current in such Exchange Act reporting. Under the mandated amendments, such issuers technically will be subject to both reporting regimes. Thus, some Tier 2 issuers may incur costs as a result of this amendment, particularly if they are likely not to remain current in their Exchange Act reporting.

3. Efficiency, Competition, and Capital Formation

The amendments may attract additional issuers and a potentially wider range of issuers to the Regulation A market segment, resulting in potentially greater capital formation under Regulation A. As we note below, many of these issuers may have otherwise pursued a registered offering today, thus the net effects on capital formation may be small.

Nevertheless, the amendments may enable some issuers to optimize their financing strategy and reduce external financing costs as a result of greater flexibility in raising capital. This may lead some reporting companies to switch from private placements to Regulation A. The additional flexibility to alternate between Regulation A and registered offerings may on the margin encourage some private companies to pursue public offerings (either pursuant to Regulation A or to a registration statement) or to become reporting companies. Increased reliance on public offerings may incrementally increase the availability of information about offered securities, the investment opportunities available to non-accredited investors, the efficiency of such investors' capital allocation decisions, and the competition among issuers in public offerings for investor capital.

The ability of reporting companies to use Regulation A may increase competition among issuers for investor capital in the Regulation A market. If investors in the Regulation A market prefer reporting companies due to the additional disclosures they provide, it may adversely affect the ability of non-reporting companies to raise capital under Regulation A. This incremental effect may be limited to the extent that reporting companies using Regulation A may have otherwise raised capital from the same investors in a registered offering. If investors reveal a preference for additional disclosure, non-reporting companies seeking Regulation A financing may register a class of securities under Section 12 or provide Exchange Act disclosures voluntarily in response to market demand for information, although such steps would entail additional costs. Alternatively, Regulation A use by reporting companies may have positive spillovers for non-reporting companies in the Regulation A market if the inflow of reporting companies attracts additional interest from investors, intermediaries, and information providers to the Regulation A market as a whole.

We recognize that many of the issuers likely to rely on the amendments to pursue a Regulation A offering may be reporting companies that would have otherwise pursued a registered offering. We further recognize that the investors likely to invest in the Regulation A securities of reporting companies relying on the amendments may be the same investors that would have invested in registered securities of those issuers prior to the amendments. Therefore, the net aggregate effects of the amendments on efficiency, competition, capital formation, and investor protection may be small.

V. Paperwork Reduction Act

A. Background and Summary

Certain provisions of Regulation A that will be affected by these amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (the ''PRA'').[55] The Commission is submitting the amendment to the Office of Management and Budget (the ''OMB'') for review in accordance with the PRA.[56] The title for the affected collection of information is Regulation A (Form 1–A) (OMB Control No. 3235–0286).

Regulation A provides an exemption from registration for offers and sales of securities for up to $50 million. Regulation A requires issuers to provide certain disclosures; this disclosure is a collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collection is mandatory. Responses to the information collection are not kept confidential and there is no mandatory retention period for the information disclosed.

The hours and costs associated with preparing disclosure, filing forms, and retaining records constitute reporting and cost burdens imposed by the collections of information. In deriving estimates of these hours and costs, we recognize that the burdens likely will vary among individual issuers based on a number of factors, including the stage of development of the business, the amount of capital an issuer seeks to raise, and the number of years since inception of the business. We believe that some issuers will experience costs in excess of the average and some

[54] *See* General Instruction I.A.3 to Form S–3 and General Instruction I.A.2 to Form F–3.

[55] 44 U.S.C. 3501 *et seq.*

[56] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

issuers may experience less than the average costs.

B. Estimated Number of Regulation A Offerings

Data regarding current market practices may help identify the potential number of offerings that will be conducted in reliance on the final rules. We estimate that there are currently approximately 112 Regulation A offering statements filed by issuers per year. While it is not possible to predict with certainty the number of offering statements that will be filed by issuers relating to offerings made in reliance on amended Regulation A, for purposes of this PRA analysis, we estimate that the number will be 179 offering statements per year. We base this estimate on: (i) The current approximate number of annual Form 1–A filings under the existing rules, plus (ii) 25 percent of the estimated number of registered offerings of securities by reporting companies that were not exchange listed that would have been eligible to be conducted under Regulation A.[57]

For purposes of this PRA analysis, we assume that each offering statement for a unique Regulation A offering that is filed represents a unique issuer, such that approximately 179 issuers are estimated to conduct Regulation A offerings each year under the final rules.

B. PRA Reporting and Cost Burden Estimates

Regulation A requires issuers to file a Form 1–A: Offering Statement with the Commission. Regulation A has one administrative burden hour associated with it, and Form 1–A is currently estimated to take approximately 750 burden hours per response. We do not estimate that the one administrative burden hour associated with Regulation A will change as a result of the final rules. We believe the burden hours associated with Form 1–A will change as a result of the amendments. Because an Exchange Act reporting company is likely to have already prepared much of the information required to respond to Form 1–A for its Exchange Act reporting purposes, we estimate that the burden to prepare and file Form 1–A, as amended, for a reporting company will be approximately 700 hours.[58] This will decrease the burden on average across all issuers in comparison to existing rules, to approximately 731.28 hours. We estimate that the issuer will internally carry 75 percent of the burden of preparation and that outside professionals retained by the issuer at an average cost of $400 per hour[59] will carry 25 percent. However, because we estimate that 67 additional offering statements will be filed per year as a result of the amendments, we estimate that the overall burden hours to prepare and file Form 1–A will increase.

We estimate that compliance with the requirements of Form 1–A will require 130,900 burden hours (179 offering statements × 731.28 hours/offering statement) in aggregate each year, which corresponds to 98,175 aggregated hours carried by the issuer internally (179 offering statements × 731.28 hours/offering statement × 0.75) and aggregated costs of $13,089,912 (179 offering statements × 731.28 hours/offering statement × 0.25 × $400) for the services of outside professionals. As stated above, we estimate that the amendments to Regulation A will not change the one administrative burden hour associated with the review of Regulation A and will require 179 burden hours (179 offering statements × one hour/offering statement) in aggregate each year, which corresponds to 134.25 aggregated hours carried by the issuer internally (179 offering statements × 0.75) and aggregated costs of $17,900 (179 offering statements × 0.25 × $400) for the services of outside professionals. When combined with the estimates for Form 1–A, the administrative burden hour results in an estimated total compliance burden of 732.28 hours per offering statement and an estimated annual compliance burden of 131,078.12 hours (179 offering statements × 732.28 hours/offering statement) and aggregated costs of $13,107,812 (179 offering statements × 732.28 hours/offering statement × 0.25 × $400).

C. Request for Comment

We request comments in order to evaluate: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–29–18. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–29–18 and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–0213. Interested persons are encouraged to send comments to the OMB by March 4, 2019.

VI. Statutory Authority

The amendments contained in this release are adopted under the authority set forth in sections 3(b), 19(a), and 28 of the Securities Act and section 508 of the Economic Growth Act.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Amendment

In accordance with the foregoing, title 17 chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78ll(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L.

[57] *See* Section IV.A.2 (citing approximately 267 non-exchange listed reporting companies with registered securities offerings in 2017 of up to $50 million that may be eligible for Regulation A under the amendments).

[58] By comparison, we estimate the burden per response for preparing Form S–1 to be 671 hours. Such estimate reflects the effect on disclosure preparation time of the ability of certain issuers to forward incorporate by reference into the prospectus contained in a registration statement on Form S–1. *See* Form S–1, at 1.

[59] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of $400 per hour. This is the rate we typically estimate for outside services used in connection with public company reporting.

112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 2. Section 230.251 is amended by removing and reserving paragraph (b)(2) and revising paragraph (b)(6) to read as follows:

§ 230.251 Scope of exemption.

* * * * *

(b) * * *

(6) Is not, and has not been, subject to any order of the Commission entered pursuant to Section 12(j) (15 U.S.C. 78l(j)) of the Securities Exchange Act of 1934 (the ''Exchange Act'') (15 U.S.C. 78a *et seq.*) within five years before the filing of the offering statement;

* * * * *

■ 3. Section 230.257 is amended by adding paragraph (b)(6), removing and reserving paragraph (d)(1), and revising paragraph (e) to read as follows:

§ 230.257 Periodic and current reporting; exit report.

* * * * *

(b) * * *

(6) *Exchange Act reporting requirements.* The duty to file reports under this rule shall be deemed to have been met if the issuer is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o) and, as of each Form 1–K and Form 1–SA due date, has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o) during the 12 months (or such shorter period that the registrant was required to file such reports) preceding such due date.

* * * * *

(e) *Termination of duty to file reports.* If the duty to file reports is deemed to have been met pursuant to paragraph (b)(6) of this section and such status ends because the issuer terminates or suspends its duty to file reports under the Exchange Act, the issuer's obligation to file reports under paragraph (b) of this section shall:

(1) Automatically terminate if the issuer is eligible to suspend its duty to file reports under paragraphs (d)(2) and (3) of this section; or

(2) Recommence with the report covering the most recent financial period after that included in any effective registration statement or filed Exchange Act report.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 4. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

■ 5. Amend Form 1–A (referenced in § 239.90) by revising Item 2 of Part I to read as follows:

Note: The text of Form 1–A does not, and this amendment will not, appear in the Code of Federal Regulations.

FORM 1–A

REGULATION A OFFERING STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I—NOTIFICATION

* * * * *

ITEM 2. Issuer Eligibility

☐ Check this box to certify that all of the following statements are true for the issuer(s):

- Organized under the laws of the United States or Canada, or any State, Province, Territory or possession thereof, or the District of Columbia.
- Principal place of business is in the United States or Canada.
- Not a development stage company that either (a) has no specific business plan or purpose, or (b) has indicated that its business plan is to merge with an unidentified company or companies.
- Not an investment company registered or required to be registered under the Investment Company Act of 1940.
- Not issuing fractional undivided interests in oil or gas rights, or a similar interest in other mineral rights.
- Not issuing asset-backed securities as defined in Item 1101(c) of Regulation AB.
- Not, and has not been, subject to any order of the Commission entered pursuant to Section 12(j) of the Exchange Act (15 U.S.C. 78*l*(j)) within five years before the filing of this offering statement.
- Has filed with the Commission all the reports it was required to file, if any, pursuant to Rule 257 during the two years immediately before the filing of the offering statement (or for such shorter period that the issuer was required to file such reports).

* * * * *

By the Commission.

Dated: December 19, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–27980 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 270

[Docket ID: DOD–2018–OS–0050]

RIN 0790–AK38

Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam

AGENCY: Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes the Department of Defense (DoD) regulation concerning compensation of certain former operatives incarcerated by the Democratic Republic of Vietnam. The content of this part is obsolete as the claim period expired and the Vietnam Commandos Compensation Commission was disbanded. Therefore, this part is unnecessary, and can be removed.

DATES: This rule is effective on January 31, 2019.

FOR FURTHER INFORMATION CONTACT: Don Syendsen, 703–695–9371.

SUPPLEMENTARY INFORMATION: This part was originally published 15 May 1997 under the National Defense Authorization Act of FY 1997 and established the Vietnam Commandos Compensation Commission within the Office of the Secretary of Defense. The rule authorized a claims process for compensation of Vietnamese operatives who served in certain U.S.-led operations, were captured, and incarcerated in the Democratic Republic of Vietnam. The claim period expired 15 May 2000; payments were completed by July 2001; and, the commission was disbanded.

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

List of Subjects in 32 CFR Part 270

Claims, Military personnel, Prisoners of war, Vietnam.

PART 270—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 270, is removed.

Dated: January 28, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–00428 Filed 1–30–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

[Docket ID: USN–2018–HQ–0011]

RIN 0703–AB03

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes Department of the Navy regulations governing Certification and Exemptions under the International Regulations for Preventing Collisions at Sea, 1972. The certification and exemption of certain naval vessels which cannot comply fully with the International Regulations for Preventing Collisions at Sea, 1972, is governed by statute and executive order which direct that notice of certification of alternate compliance be published in the **Federal Register**. The content of this part imposes no burden on the public, and the rule is not required. Notice will continue to be provided the public through the publication of notice documents in the **Federal Register**. Therefore, this rule can be removed from the CFR.

DATES: This rule is effective on January 31, 2019.

FOR FURTHER INFORMATION CONTACT: LCDR Bradley Davis at 202–685–5040.

SUPPLEMENTARY INFORMATION: 33 U.S.C. 1605 and Executive Order 11964 of January 19, 1977, direct the Department of the Navy to provide public notice in the **Federal Register** of U.S. Navy vessels which cannot comply fully with the International Regulations for Preventing Collisions at Sea, 1972. It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since statutorily required notice will be accomplished through publication of notice documents in the **Federal Register**.

Removal of this part does not add or reduce the burden or cost on the public in any way. The cost of certifying alternate compliance of U.S. Navy vessels and notifying the public of such certification will remain the same with removal of the part.

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 706

Marine Safety; Navigation (water).

PART 706—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 706 is removed.

Dated: January 28, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00412 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 707

[Docket ID: USN–2018–HQ–0010]

RIN 0703–AB04

Special Rules With Respect to Additional Station and Signal Lights

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes Department of the Navy regulations concerning Special Rules with Respect to Additional Station and Signal Lights. Public notification of U.S. Navy vessels which display additional station and signal lights is governed by statute and executive order which direct that such notice be published in the **Federal Register**. The content of this part imposes no burden on the public, and the rule is not required. Notice will continue to be provided the public through the publication of notice documents in the **Federal Register**. Therefore, this rule can be removed from the CFR.

DATES: This rule is effective on January 31, 2019.

FOR FURTHER INFORMATION CONTACT: LCDR Bradley Davis at 202–685–5040.

SUPPLEMENTARY INFORMATION: 33 U.S.C. 1605 and Executive Order 11964 of January 19, 1977, direct the Department of the Navy to provide public notice in the **Federal Register** of U.S. Navy vessels which display additional station and signal lights. It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since statutorily required notice will continue to be accomplished through publication of notice documents in the **Federal Register**.

Removal of this part does not add or reduce the burden or cost on the public in any way. The cost of notifying the public regarding additional station and signal lights displayed by U.S. Navy vessels will remain the same with removal of the part.

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 707

Marine safety; Navigation (water).

PART 707—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 707 is removed.

Dated: January 29, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00415 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0376]

RIN 1625–AA00

Safety Zone; Neches River, Beaumont, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the duration of a temporary safety zone on the navigable waters of the Neches River extending 500-feet on either side of the Kansas City Southern Railroad Bridge that crosses the Neches River in Beaumont, TX. The safety zone is necessary to protect the bridge as well as persons and property on or near the bridge from potential damage from passing vessels until missing and/or damaged fendering systems are repaired

or replaced. Entry of certain vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Marine Safety Unit Port Arthur or a designated representative.

DATES: This rule is effective from 1 a.m. on February 1, 2019 through midnight on September 30, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–0376 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 Mr. Scott Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–719–5086, email *Scott.K.Whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Marine Safety Unit Port Arthur
DHS Department of Homeland Security
FR Federal Register
KCS Kansas City Southern Railroad Company
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code
VTS Vessel Traffic Service

II. Background Information and Regulatory History

On April 19, 2018, the Coast Guard was notified that the wood fendering systems designed to protect bridge support columns of the Kansas City Southern Railroad Company's bridge (KSC) from strikes by vessels transiting under the bridge had been damaged or destroyed by Hurricane Harvey. The south bank column protection fenders are missing and the north bank column protection fenders are severely damaged. KCS indicated that strikes to the support columns could compromise the bridge structure. In response, on May 7, 2018 the Coast Guard published a temporary final rule; request for comment titled *Safety Zone; Neches River, Beaumont, TX* (83 FR 19965). During the comment period that ended on May 29, 2018, we received no comments. The safety zone was established on May 7, 2018, and extended on September 5, 2018 via a temporary final rule titled *Safety Zone; Neches River, Beaumont, TX* (83 FR 45047). The zone is scheduled to expire on January 31, 2019.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to continue to respond to potential safety hazards posed by and to passing vessel traffic and to the unprotected bridge columns supporting the KCS Bridge.

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 Marine Safety Unit Port Arthur (COTP) has determined that potential hazards posed by the unprotected bridge columns are a safety concern to the KCS Bridge and to persons and property on or near the bridge. The purpose of this rule is to provide for the safety of the KCS Bridge and persons and property on or near the bridge.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our temporary final rule; request for comments published on May 7, 2018. The only changes in the regulatory text of this rule are minor formatting edits and the extension of the effective period until September 30, 2019, or until the missing and/or damaged fenders are repaired or replaced, whichever occurs first.

This rule extends the temporary safety zone from February 1, 2019 through September 30, 2019 or until missing and/or damaged fendering systems are repaired or replaced, whichever occurs first. The safety zone extends 500-feet on either side of the KCS Bridge that crosses the Neches River in Beaumont, TX in approximate location 30°04′54.8″ N 094°05′29.4″ W. The duration of the zone is intended to protect the bridge support columns as well as persons and property on or near the bridge until the bridge fendering is repaired or replaced. Only vessels less than 65 feet in length and not engaged in towing are authorized to enter the zone, unless otherwise permitted by the COTP or a designated representative to enter the safety zone.

Persons and vessels desiring to enter the safety zone must request permission from the COTP or a designated representative. They may be contacted through Vessel Traffic Service (VTS) on channels 65A or 13 VHF–FM, or by telephone at (409) 719–5070.

Permission to transit through the bridge will be based on weather, tide and current conditions, vessel size, horsepower, and availability of assist vessels. All persons and vessels permitted to enter this temporary safety zone shall comply with the lawful orders or directions given to them by COTP or a designated representative. Intentional or unintentional contact with any part of the bridge or associated structure, including fendering systems, support columns, spans or any other portion of the bridge, is strictly prohibited. Report any contact with the bridge or associated structures immediately to VTS Port Arthur on channels 65A, 13 or 16 VHF–FM or by telephone at (409) 719–5070.

The Coast Guard will inform the public through public of the effective period of this safety zone through VTS Advisories, Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) 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 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. This rule will only affect certain vessels transiting the upper reaches of the Neches River in Beaumont, TX. The Coast Guard will issue a VTS Advisory concerning the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and

operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within 500-feet of either side of the KCS Bridge that crosses the Neches River in Beaumont, TX. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0376 to read as follows:

§ 165.T08–0376 Safety Zone; Neches River, Beaumont, TX.

(a) *Location.* The following area is a safety zone: all navigable waters extending 500-feet on either side of the Kansas City Southern Railroad Bridge that crosses the Neches River in Beaumont, TX in approximate location 30°04′54.8″ N 094°05′29.4″ W.

(b) *Effective and enforcement periods.* This section is effective from 1 p.m. on February 1, 2019 through midnight on September 30, 2019. This section will be enforced from 1 p.m. on February 1, 2019 through midnight on September 30, 2019, or until missing and/or damaged fendering systems are repaired or replaced, whichever occurs first.

(c) *Regulations.* (1) No vessel may enter or remain in the safety zone except:

(i) A vessel less than 65 feet in length and not engaged in towing; or

(ii) A vessel authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative.

(2) Persons and vessels desiring to enter the safety zone must request permission from the COTP or a designated representative. They may be contacted through Vessel Traffic Service (VTS) on channels 65A or 13 VHF–FM, or by telephone at (409) 719–5070.

(3) Permission to transit through the bridge will be based on weather, tide and current conditions, vessel size, horsepower, and availability of assist vessels. All persons and vessels permitted to enter this temporary safety zone shall comply with the lawful orders or directions given to them by COTP or a designated representative.

(4) Intentional or unintentional contact with any part of the bridge or associated structure, including fendering systems, support columns,

spans or any other portion of the bridge, is strictly prohibited. Report any contact with the bridge or associated structures immediately to VTS Port Arthur on channels 65A, 13 or 16 VHF–FM or by telephone at (409) 719–5070.

(d) *Informational broadcasts.* The Coast Guard will inform the public through public of the effective period of this safety zone through VTS Advisories, Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: December 26, 2018.

K.J. Pierre,

Commander, U.S. Coast Guard, Acting Captain of the Port Marine Safety Unit Port Arthur.

[FR Doc. 2019–00423 Filed 1–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1063]

RIN 1625–AA00

Safety Zones, Delaware River; Maintenance Dredging

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is establishing temporary safety zones in portions of New Castle Range, Marcus Hook Range, Deepwater Point Range, and Anchorage 7 off Marcus Hook Range on the Delaware River. The safety zones will temporarily restrict vessel traffic from transiting or anchoring in a portion of the Delaware River while dredging operations are being conducted to facilitate the Delaware River annual maintenance project for the main navigational channel of the Delaware River. This regulation is necessary to provide for the safety of life on navigable waters of the Delaware River, in the vicinity of dredging activity and is intended to protect mariners from the hazards associated with pipe-laying and dredging operations.

DATES: This rule is effective without actual notice from January 31, 2019, through May 31, 2019. For the purposes of enforcement, actual notice will be used from January 15, 2019, through January 31, 2019.

Comments and related material must be received by the Coast Guard on or before March 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–1063 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. You may submit comments identified by docket number USCG–2018–1063 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Edmund Ofalt, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone (215) 271–4889, email *Edmund.j.ofalt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are impracticable, unnecessary, or contrary to the public interest. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impractical and contrary to the public interest. Final details for the dredging operation were not received by the Coast Guard until January 9, 2019. Vessels transiting through New Castle Range, Marcus Hook Range, Deepwater Point Range, or entering the waters of Anchorage 7 off Marcus Hook Range during dredging operations may be at risk. We are taking immediate action to help protect the safety of the project personnel, vessels, and the marine environment on the navigable waters within the safety zones while dredging is being conducted. It is important to have these regulations in effect during dredging operations and it is impracticable to delay the regulations.

We are issuing this rule and, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** because doing so would be contrary to the public interest. Allowing this dredging operation to go forward without safety zones in place would expose mariners and the public to unnecessary dangers.

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 (COTP), Delaware Bay, has determined that potential hazards associated with dredging operations beginning on or after January 15, 2019, will be a safety concern for vessels attempting to transit the Delaware River, along New Castle Range, Marcus Hook Range, Deepwater Point Range, and Anchorage 7 off Marcus Hook Range. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters within the safety zones while dredging operations are being conducted.

IV. Discussion of the Rule

This rule establishes safety zones on portions of the Delaware River from January 15, 2019 until May 31, 2019, unless cancelled earlier by the COTP. The safety zones are necessary to facilitate the main channel annual maintenance of New Castle Range, Marcus Hook Range, Deepwater Point Range, and Anchorage 7 off Marcus Hook Range (as described in 33 CFR 110.157(a)(8)). Maintenance dredging in the channel will most likely be conducted with the dredge ESSEX, though other dredges may be used, along with associated dredge pipeline and boosters. The pipeline consists of a combination of floating hoses immediately behind the dredge and submerged pipeline leading to upland disposal areas. Due to the hazards related to dredging operations, the associated pipeline, and the location of the submerged pipeline, safety zones are being established in the following areas:

(1) Safety zone one includes all navigable waters within 250 yards of the dredge displaying lights and shapes for vessels restricted in ability to maneuver as described in 33 CFR 83.27 and all related dredge equipment when the dredge is operating in New Castle Range, Marcus Hook Range, Deepwater Point Range, and Anchorage 7. This safety zone is being established for the

duration of the maintenance project. Vessels requesting to transit the safety zone must contact the dredge on VHF channel 13 or 16 at least 1 hour prior to arrival to arrange safe passage. At least one side of the main navigational channel will be kept clear for safe passage of vessels in the vicinity of the safety zone. At no time will the entire main navigational channel be closed to vessel traffic. Vessels should avoid meetings in these areas where one side of the main navigational channel is open and proceed per this rule and the Rules of the Road (33 CFR subchapter E).

(2) Safety zone two includes all the waters of Anchorage 7 off Marcus Hook Range, as described in 33 CFR 110.157(a)(8). Vessels wishing to anchor in Anchorage 7 off Marcus Hook Range must obtain permission from the COTP at least 24 hours in advance by calling (215) 271–4807. The COTP will permit only one vessel to anchor at a time on a ''first-come, first-served'' basis. Vessels will only be allowed to anchor for a 12 hour period. Vessels that require an examination by the Public Health Service, Customs, or Immigration authorities will be directed to an anchorage by the COTP for the required inspection. Vessels are encouraged to use Anchorage 9 near the entrance to Mantua Creek, Anchorage 10 at Naval Base, Philadelphia, and Anchorage 6 off Deepwater Point Range as alternative anchorages.

Entry into, transiting, or anchoring within safety zone one is prohibited unless vessels obtain permission from the COTP or make satisfactory passing arrangements with the operating dredge per this rule and the Rules of the Road (33 CFR subchapter E). Though the dredge ESSEX is the primary dredge to be used in these operations, the COTP may update the information and the dredge being utilized with these dredging operations via Marine Safety Information Bulletin and Broadcast Notice to Mariners.

The COTP will activate and terminate the safety zones individually once all submerged pipeline has been recovered and dredging operations are completed in each respective range. Notice of the activation and the termination of the safety zones will be made in accordance with 33 CFR 165.7.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zones. Although this regulation will restrict access to regulated areas, the effect of this rule will not be significant because there are a number of alternate anchorages available for vessels to anchor. Furthermore, vessels may transit through the safety zone with the permission of the COTP or make satisfactory passing arrangements with the dredge ESSEX or other dredges that may be used in accordance with this rule and the Rules of the Road (33 CFR subchapter E). Notification of the safety zones to the maritime public will be made via maritime advisories allowing mariners to alter their plans accordingly.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will close only one side of the main navigational channel and vessels can request permission to enter the channel. 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 (REC) 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.

VI. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–1063 to read as follows:

§ 165.T05–1063 Safety Zones, Delaware River; Maintenance Dredging.

(a) *Location.* The following areas are safety zones:

(1) Safety zone one includes all waters within 250 yards of the dredge displaying lights and shapes for vessels restricted in ability to maneuver as described in 33 CFR 83.27, as well as all related dredge equipment, while the dredge is operating in New Castle Range, Marcus Hook Range, and Deepwater Point Range. For enforcement purposes, New Castle Range, Marcus Hook Range, and Deepwater Point Range include all navigable waters of the Delaware River shoreline to shoreline, bound by a line drawn perpendicular to the center line of the channel at the farthest upriver point of the range to a line drawn perpendicular to the center line of the channel at the farthest downriver point of the range.

(2) Safety zone two includes all the waters of Anchorage 7 off Marcus Hook Range, as described in 33 CFR 110.157(a)(8), which is depicted on U.S. Nautical Chart 12312.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a Federal, State, or local law enforcement vessel assisting the Captain of the Port, Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Entry into or transiting within safety zone one in paragraph (a)(1) of this section is prohibited unless vessels obtain permission from the Captain of the Port via VHF–FM channel 16 or 215–271–4807, or make satisfactory passing arrangements via VHF–FM channel 13 or 16 with the operating dredge per this section and the rules of the road (33 CFR subchapter E). Vessels requesting to transit shall contact the operating dredge via VHF–FM channel 13 or 16 at least 1 hour prior to arrival.

(2) Vessels granted permission to enter and transit safety zone one in paragraph (a)(1) of this section must do so in accordance with any directions or orders of the Captain of the Port, his designated representative, or the dredge. No person or vessel may enter or remain in a safety zone without permission from the Captain of the Port or the dredge.

(3) All vessels transiting safety zone one in paragraph (a)(1) of this section must operate at the minimum safe speed necessary to maintain steerage and reduce wake.

(4) Vessels desiring to anchor in safety zone two in paragraph (a)(2) of this section, Anchorage 7 off Marcus Hook Range, must obtain permission from the COTP at least 24 hours in advance by calling (215) 271–4807. The COTP will permit one vessel at a time to anchor on a ''first-come, first-served'' basis. Vessels will only be allowed to anchor for a 12 hour period. Vessels that require an examination by the Public Health Service, Customs, or Immigration authorities will be directed to an anchorage for the required inspection by the COTP.

(5) This section applies to all vessels except those engaged in the following operations: Enforcement of laws, service of aids to navigation, and emergency response.

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

(e) *Enforcement period.* These zones will be enforced 24 hours a day while operations are being conducted from January 15, 2019 through May 31, 2019 unless cancelled earlier by the COTP.

Dated: January 14, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–00075 Filed 1–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 36 and 42

RIN 2900–AQ55

Federal Civil Penalties Inflation Adjustment Act Amendments

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is providing public notice of inflationary adjustments to the maximum civil monetary penalties assessed or enforced by VA, as implemented by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, for calendar year 2019. VA may impose civil monetary penalties for false loan guaranty certifications. Also, VA may impose civil monetary penalties for fraudulent claims or written statements made in connection with VA programs generally. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, sets forth a formula that increases the maximum statutory amounts for civil monetary penalties and directs VA to give public notice of the new maximum amounts by regulation. Accordingly, VA is providing notice of the calendar year 2019 inflationary adjustments that increase maximum civil monetary penalties from $22,363 to $22,927 for false loan guaranty certifications and from $11,181 to $11,463 for fraudulent claims or written statements made in connection with VA programs generally.

DATES: *Effective Date:* This rule is effective January 31, 2019.

FOR FURTHER INFORMATION CONTACT: Michael Shores, Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4921. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) (Pub. L. 114–74, sec. 701, 129 Stat. 599), which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act was codified in a note following 28 U.S.C. 2461. The 2015 Act requires agencies to publish annual adjustments for inflation, based on the percent change between the Consumer Price Index for All Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment and the prior year's October CPI–U. 28 U.S.C. 2461 note, secs. 4(a) and (b) and 5(b)(1). This rule implements the 2019 calendar year inflation adjustment amounts.

Under 38 U.S.C. 3710(g)(4)(B), VA is authorized to levy civil monetary penalties against private lenders that originate VA-guaranteed loans if a lender falsely certifies that they have complied with certain credit information and loan processing standards, as set forth by chapter 37, title 38 U.S.C. and part 36, title 38 CFR. Under section 3710(g)(4)(B), any lender who knowingly and willfully makes such a false certification shall be liable to the United States Government for a civil penalty equal to two times the amount of the Secretary's loss on the loan involved or to another appropriate amount, not to exceed $10,000, whichever is greater. VA implemented the penalty amount in 38 CFR 36.4340(k)(1)(i) and (k)(3). On December 14, 2018, OMB issued Circular M–19–04. This circular reflects that the October 2017 CPI–U was 246.663 and the October 2018 CPI–U was 252.885, resulting in an inflation adjustment multiplier of 1.02522. Accordingly, the calendar year 2019 inflation revision imposes an adjustment from $22,363 to $22,927.

Under 31 U.S.C. 3802, VA can impose monetary penalties against any person who makes, presents, or submits a claim or written statement to VA that the person knows or has reason to know is false, fictitious, or fraudulent, or who engages in other covered conduct. The statute permits, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each claim. 31 U.S.C. 3802(a)(1) and (2). VA implemented the penalty amount in 38 CFR 42.3(a)(1) and (b)(1). As previously noted, Circular M–19–04 reflects an inflation adjustment multiplier of 1.02522. Therefore, the calendar year 2019 inflation revision imposes an adjustment from $11,181 to $11,463.

Accordingly, VA is revising 38 CFR 36.4340(k)(1)(i) and (3) and 38 CFR 42.3(a)(1)(iv) and (b)(1)(ii) to reflect the 2019 inflationary adjustments for civil monetary penalties assessed or enforced by VA.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for prior notice and public comment and to publish this rule with an immediate effective date. The 2015 Act requires agencies to make annual adjustments for inflation to the allowed amounts of civil monetary penalties ''notwithstanding section 553 of title 5, United States Code.'' 28 U.S.C. 2461 note, sec. 4(a) and (b). The penalty adjustments, and the methodology used to determine the adjustments, are set by the terms of the 2015 Act. VA has no discretion to make changes in those areas. Therefore, an opportunity for prior notice and public comment and a delayed effective date is unnecessary.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by OMB, unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this regulatory action

have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.'' This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). This final rule is exempt from the notice and comment requirements of the APA because the 2015 Act directed the Department to issue the annual adjustments without regard to section 553 of the APA. Therefore, the requirements of the RFA applicable to notice and comment rulemaking do not apply to this rule. Accordingly, the Department is not required either to certify that the final rule would not have a significant economic impact on a substantial number of small entities or to conduct a regulatory flexibility analysis.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.114, Veterans Housing Guaranteed and Insured Loans.

List of Subjects

38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

38 CFR Part 42

Administrative practice and procedure, Claims, Fraud, Penalties.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on January 23, 2019, for publication.

Dated: January 23, 2019.

Jeffrey M. Martin,

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

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR parts 36 and 42 as set forth below:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501 and 3720.

§ 36.4340 [Amended]

■ 2. In § 36.4340, amend paragraphs (k)(1)(i) introductory text and (k)(3) by removing ''$22,363'' and adding in its place ''$22,927''.

PART 42—STANDARDS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

■ 3. The authority citation for part 42 continues to read as follows:

Authority: Pub. L. 99–509, secs. 6101–6104, 100 Stat. 1874, codified at 31 U.S.C. 3801–3812.

§ 42.3 [Amended]

■ 4. In § 42.3, amend paragraphs (a)(1)(iv) and (b)(1)(ii) by removing ''$11,181'' and adding in its place ''$11,463''.

[FR Doc. 2019–00369 Filed 1–30–19; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3015

[Docket No. RM2017–1; Order No. 4963]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a final rule concerning the minimum amount that the Postal Service's competitive products as a whole are required to contribute to institutional costs annually. The rule as adopted uses a formula-based approach to annually calculate competitive products' appropriate share of institutional costs. For additional information, Order No. 4963 can be accessed electronically through the Commission's website at *https://www.prc.gov.*

DATES: *Effective:* March 4, 2019.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Relevant Statutory Requirements

Section 3633(a)(3) of title 39 of the United States Code requires the Commission to ''ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.'' 39 U.S.C. 3633(a)(3). Section 3633(b) requires that the Commission revisit the appropriate share regulation at least every 5 years in order to determine if the minimum contribution requirement should be ''retained in its current form, modified, or eliminated.'' 39 U.S.C. 3633(b). In making such a determination, the Commission is required to consider ''all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.'' *Id.*

II. Background

Pursuant to section 3633(b), the Commission initiated Docket No. RM2017–1 for the purpose of conducting its second review of the appropriate share requirement since the enactment of the Postal Accountability and Enhancement Act (PAEA), Public Law 109–435, 120 Stat. 3198 (2006). In the decade following the PAEA's

enactment, competitive products' appropriate share has been set at 5.5 percent of the Postal Service's total institutional costs. When the Commission promulgated its initial competitive product rules in Docket No. RM2007–1, it found that basing the appropriate share on a percentage of total institutional costs was an easily understood approach that mirrored the directive of section 3633(a)(3).[1] The Commission considered the amount that competitive products had historically contributed to the Postal Service's institutional costs and set the appropriate share at 5.5 percent.[2] In Docket No. RM2012–3, the Commission completed its first review of the appropriate share and, after performing a qualitative evaluation of the criteria of section 3633(b), determined that the appropriate share should be maintained at 5.5 percent.[3]

In its second review of the appropriate share, the Commission found that market conditions have changed since the PAEA's enactment and since the Commission's last review of the appropriate share.[4] Most significantly, the parcel delivery market has experienced a significant increase in demand, particularly over the last 5 years, due to the growing prevalence of e-commerce. Order No. 4963 at 5–12. This has led to steady increases in revenue and profit for all competitors in the market, as well as growth in competitive volumes and market share for the Postal Service. *Id.*

III. Basis and Purpose of Rule Change

In light of the changes described above, Order No. 4963 implements a formula-based approach to determining the appropriate share and adopts related rule changes. *Id.* at 19–29. The purpose of the Commission's formula-based approach is to provide an objective basis on which to quantify the statutory considerations of section 3633(b) in order to determine the year-to-year change in competitive products' joint minimal capacity to generate profit that can be contributed to the coverage of institutional costs. *Id.*

The objective basis that the formula relies on is the Postal Service's market power, which implicitly captures the vast majority of the qualitative considerations that the Commission has previously looked to in assessing the prevailing competitive conditions in the market and other relevant circumstances. *Id.* at 20. Market power is a firm's ability to price a product or service higher than the marginal cost of producing it and, as a concept, embodies both absolute and relative aspects. *Id.* at 20–21. A firm's absolute market power is its ability to raise prices with regard to its own consumers. *Id.* at 21, 22. A firm's relative market power, which can also be described as its market position, is its capacity to exercise market power relative to its competitors. *Id.* at 21, 25. A firm's absolute market power in a competitive market will necessarily be limited by its market position and, as such, the Postal Service's absolute market power and its market position must be assessed in conjunction. *Id.* at 21.

In order to assess the Postal Service's absolute market power and its market position, the formula utilizes two distinct components. The first component is the Competitive Contribution Margin, which measures the Postal Service's absolute market power. *Id.* at 22–24. Specifically, the Competitive Contribution Margin is calculated by subtracting the total attributable costs of producing the Postal Service's competitive products collectively from the total amount of revenue the Postal Service is able to realize from those competitive products collectively in a given fiscal year, and then dividing this result by the total competitive product revenue. *Id.* at 23–24. The formula assesses the year-over-year percent change in the Competitive Contribution Margin to determine how much, if any, the Postal Service's absolute market power has changed. *Id.* at 22.

The second component of the formula is the Competitive Growth Differential, which measures the Postal Service's market position. *Id.* at 25–26. Specifically, the Competitive Growth Differential is calculated by subtracting the year-over-year percent change in the combined revenue for the Postal Service's competitors from the year-over-year percent change in the Postal Service's competitive product revenue. *Id.* at 25. This relative growth is then weighted by the Postal Service's market share. *Id.*

Using the above-described components, the Commission's formula is represented by the following equation:

$$AS_{t+1} = AS_t * (1+\%\Delta CCM_{t-1} + CGD_{t-1})$$

If t=0=*FY* 2007, AS = 5.5%

Where,

AS = Appropriate Share
CCM = Competitive Contribution Margin
CGD = Competitive Growth Differential
t = Fiscal Year

Id. at 26.

In order to calculate an upcoming fiscal year's appropriate share percentage (AS_{t+1}), the formula multiplies the sum of the prior fiscal year's Competitive Growth Differential and percentage change in the Competitive Contribution Margin ($1 + \%\Delta CCM_{t-1} + CGD_{t-1}$) by the current fiscal year's appropriate share (AS_t). *Id.* at 27. Both components of the formula are given equal weight. *Id.* The formula is recursive in order to incorporate all changes in the parcel delivery market since the PAEA was enacted and the appropriate share was initially set. *Id.* The formula's calculation thus begins in FY 2007 with a beginning appropriate share of 5.5 percent. *Id.* The upcoming fiscal year's appropriate share will be updated by the Commission each year as part of the Commission's Annual Compliance Determination, which is performed pursuant to 39 U.S.C. 3653. *Id.*

IV. Final Rule

In order to implement the Commission's formula, existing § 3015.7(c) is revised. Final § 3015.7(c)(1) establishes the formula which is to be used in calculating the appropriate share and defines each of the formula's terms. Existing § 3015.7(c) states that the appropriate share of institutional costs to be covered by competitive products set forth in that rule is a minimum contribution level, and final § 3015.7(c)(1) retains this concept.

Final § 3015.7(c)(2) establishes the process by which the Commission shall update the appropriate share for each fiscal year. The Commission will annually use the formula to calculate the minimum appropriate share for the upcoming fiscal year and report the new appropriate share level for the upcoming fiscal year as part of its Annual Compliance Determination.

List of Subjects for 39 CFR Part 3015

Administrative practice and procedure.

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[1] *See* Docket No. RM2007–1. Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at 70 (Order No. 26).

[2] *See* Order No. 26 at 70–74; Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007, at 91, 138 (Order No. 43).

[3] *See generally* Docket No. RM2012–3, Order Reviewing Competitive Products' Appropriate Share Contribution to Institutional Costs, August 23, 2012 (Order No. 1449).

[4] *See* Docket No. RM2017–1, Order Adopting Final Rules Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 3, 2019, at 4–12, 114–170 (Order No. 4963); Docket No. RM2017–1, Revised Notice of Proposed Rulemaking, August 7, 2018, at 41–42 (Order No. 4742); Docket No. RM2017–1, Notice of Proposed Rulemaking to Evaluate the Institutional Cost Contribution Requirement for Competitive Products, February 8, 2018, at 12, 32, 34–53 (Order No. 4402).

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3015—REGULATION OF RATES FOR COMPETITIVE PRODUCTS

■ 1. The authority citation for part 3015 continues to read as follows:

Authority: 39 U.S.C. 503; 3633.

■ 2. Amend § 3015.7 by revising paragraph (c) to read as follows:

§ 3015.7 Standard for Compliance.

* * * * *

(c)(1) Annually, on a fiscal year basis, the appropriate share of institutional costs to be recovered from competitive products collectively, at a minimum, will be calculated using the following formula:

$$AS_{t+1} = AS_t * (1+\%\Delta CCM_{t-1} + CGD_{t-1})$$

Where,

AS = Appropriate Share, expressed as a percentage and rounded to one decimal place
CCM = Competitive Contribution Margin
CGD = Competitive Growth Differential
t = Fiscal Year
If t = 0 = FY 2007, AS = 5.5 percent

(2) The Commission shall, as part of each Annual Compliance Determination, calculate and report competitive products' appropriate share for the upcoming fiscal year using the formula set forth in paragraph (c)(1) of this section.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–00399 Filed 1–30–19; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–1693–CN]

RIN 0938–AT31

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2019; Medicare Shared Savings Program Requirements; Quality Payment Program; Medicaid Promoting Interoperability Program; Quality Payment Program—Extreme and Uncontrollable Circumstance Policy for the 2019 MIPS Payment Year; Provisions From the Medicare Shared Savings Program—Accountable Care Organizations Pathways to Success; and Expanding the Use of Telehealth Services for the Treatment of Opioid Use Disorder Under the Substance Use-Disorder Prevention That Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on November 23, 2018 entitled ''Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2019; Medicare Shared Savings Program Requirements; Quality Payment Program; Medicaid Promoting Interoperability Program; Quality Payment Program—Extreme and Uncontrollable Circumstance Policy for the 2019 MIPS Payment Year; provisions from the Medicare Shared Savings Program—Accountable Care Organizations Pathways to Success; and Expanding the Use of Telehealth Services for the Treatment of Opioid Use Disorder under the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act.''

DATES: This correcting document is effective January 31, 2019, and is applicable beginning January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Benjamin Chin, (410) 786–0679, Alesia Hovatter (410) 786–6861 or Molly MacHarris, (410) 786–4461.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2018–24170 of November 23, 2018 (83 FR 59452 through 60303), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. These corrections are effective January 1, 2019.

II. Summary of Errors

A. Summary of Errors in the Regulation Text

On page 60090, in regulation text regarding § 414.1415, we made a typographical error in identifying the year in the effective date.

B. Summary of Errors in the Appendix

On page 60151, we inadvertently omitted Table B.6. Internal Medicine (Removal Table), Table B.7. Emergency Medicine, Table B.8. Obstetrics/Gynecology, Table B.9. Ophthalmology, Table B.10. Orthopedic Surgery, Table B.11. Otolaryngology, Table B.12. Pathology, and Table B.13 Pediatrics.

III. Waiver of Proposed Rulemaking

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the

agency includes in the rule a statement of the finding and the reasons for it. In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements.

This document merely corrects technical errors in the CY 2019 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2019 PFS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2019 PFS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors

In FR Doc. 2018–24170 of November 23, 2018 (83 FR 59452 through 60303), make the following corrections:

§ 414.1415 [Corrected]

■ 1. On page 60090, in the second column; in amendatory instruction 41, in line 2, the parenthetical ''(effective January 1, 2010)'' is corrected to read ''(effective January 1, 2020)''.

■ 2. On page 60151, Table B.6. Internal Medicine (Removal Table), Table B.7. Emergency Medicine, Table B.8. Obstetrics/Gynecology, Table B.9. Ophthalmology, Table B.10. Orthopedic Surgery, Table B.11. Otolaryngology, Table B.12. Pathology, and Table B.13 Pediatrics should be added in their entirety.

BILLING CODE 4120–01–P

B.6. Internal Medicine

MEASURES FINALIZED FOR REMOVAL Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.								
NQF #	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**	**Rationale for Removal**
0056	163	CMS123v7	eCQM Specifications	Process	Effective Clinical Care	**Comprehensive Diabetes Care: Foot Exam:** The percentage of patients 18-75 years of age with diabetes (type 1 and type 2) who received a foot exam (visual inspection and sensory exam with mono filament and a pulse exam) during the measurement year.	National Committee for Quality Assurance	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
0068	204	CMS164v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Ischemic Vascular Disease (IVD): Use of Aspirin or Another Antiplatelet:** Percentage of patients 18 years of age and older who were diagnosed with acute myocardial infarction (AMI), coronary artery bypass graft (CABG) or percutaneous coronary interventions (PCI) in the 12 months prior to the measurement period, or who had an active diagnosis of ischemic vascular disease (IVD) during the measurement period, and who had documentation of use of aspirin or another antiplatelet during the measurement period.	National Committee for Quality Assurance	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	276	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Assessment of Sleep Symptoms:** Percentage of visits for patients aged 18 years and older with a diagnosis of obstructive sleep apnea that includes documentation of an assessment of sleep symptoms, including presence or absence of snoring and daytime sleepiness.	American Academy of Sleep Medicine	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	278	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Positive Airway Pressure Therapy Prescribed:** Percentage of patients aged 18 years and older with a diagnosis of moderate or severe obstructive sleep apnea who were prescribed positive airway pressure therapy	American Academy of Sleep Medicine	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	334	N/A	MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Adult Sinusitis: More than One Computerized Tomography (CT) Scan Within 90 Days for Chronic Sinusitis (Overuse):** Percentage of patients aged 18 years and older with a diagnosis of chronic sinusitis who had more than one CT scan of the paranasal sinuses ordered or received within 90 days after the date of diagnosis	American Academy of Otolaryngology-Otolaryngology- Head and Neck Surgery	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	373	CMS65v8	eCQM	Intermedi	Effective	**Hypertension: Improvement in**	Centers for	This measure is being

B.6. Internal Medicine

MEASURES FINALIZED FOR **REMOVAL** Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.								
NQF #	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**	**Rationale for Removal**
			Specifications	ate Outcome	Clinical Care	**Blood Pressure:** Percentage of patients aged 18-85 years of age with a diagnosis of hypertension whose blood pressure improved during the measurement period.	Medicare & Medicaid Services	removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	447	N/A	MIPS CQMs Specifications	Process	Community/ Population Health	**Chlamydia Screening and Follow Up:** The percentage of female adolescents 16 years of age who had a chlamydia screening test with proper follow-up during the measurement period	National Committee for Quality Assurance	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
We did not receive specific comments regarding the proposed removal of measures from this specialty measure set. **FINAL ACTION:** We are finalizing the removal of measures from the *Internal Medicine Specialty Measure Set* as proposed for the 2019 Performance Period and future years. However, as noted in our responses to public comments in Table C, we are not finalizing the following measures for removal from this measure set: Q048, Q154, Q155, and Q318.								

B.7. Emergency Medicine

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Emergency Medicine specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. We may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. This measure set does not have any measures removed from prior years.

B.7. Emergency Medicine

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Efficiency)	N/A	066	CMS146 v7	eCQM Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Appropriate Testing for Children with Pharyngitis:** Percentage of children 3-18 years of age who were diagnosed with pharyngitis, ordered an antibiotic and received a group A streptococcus (strep) test for the episode.	National Committee for Quality Assurance
! (Appropriate Use)	0653	091	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Acute Otitis Externa (AOE): Topical Therapy:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were prescribed topical preparations.	American Academy of Otolaryngology-Head and Neck Surgery
! (Appropriate Use)	0654	093	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Acute Otitis Externa (AOE): Systemic Antimicrobial Therapy – Avoidance of Inappropriate Use:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were not prescribed systemic antimicrobial therapy.	American Academy of Otolaryngology-Head and Neck Surgery
	0104	107	CMS161 v7	eCQM Specifications	Process	Effective Clinical Care	**Adult Major Depressive Disorder (MDD): Suicide Risk Assessment:** Percentage of patients aged 18 years and older with a diagnosis of major depressive disorder (MDD) with a suicide risk assessment completed during the visit in which a new diagnosis or recurrent episode was identified.	Physician Consortium for Performance Improvement Foundation (PCPI®)
§ ! (Appropriate Use)	0058	116	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Avoidance of Antibiotic Treatment in Adults with Acute Bronchitis:** Percentage of adults 18-64 years of age with a diagnosis of acute bronchitis who were not dispensed an antibiotic prescription.	National Committee for Quality Assurance
	N/A	187	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Stroke and Stroke Rehabilitation: Thrombolytic Therapy:** Percentage of patients aged 18 years and older with a diagnosis of acute ischemic stroke who arrive at the hospital within 2 hours of time last known well and for whom IV t-PA was initiated within 3 hours of time last known well.	American Heart Association
	N/A	254	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Ultrasound Determination of Pregnancy Location for Pregnant Patients with Abdominal Pain:** Percentage of pregnant female patients aged 14 to 50 who present to the emergency department (ED) with a chief complaint of abdominal pain or vaginal bleeding who receive a trans-abdominal or trans-vaginal ultrasound to determine pregnancy location.	American College of Emergency Physicians
	N/A	255	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Rh Immunoglobulin (Rhogam) for Rh-Negative Pregnant Women at Risk of Fetal Blood Exposure:** Percentage of Rh-negative pregnant women aged 14-50 years at risk of fetal blood exposure who receive Rh-Immunoglobulin (Rhogam) in the emergency department (ED).	American College of Emergency Physicians
	N/A	317	CMS22v 7	Part B Claims Measure Specifications,	Process	Community /Population Health	**Preventive Care and Screening: Screening for High Blood Pressure and Follow-Up Documented:**	Centers for Medicare & Medicaid

B.7. Emergency Medicine

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
				eCQM Specifications, MIPS CQMs Specifications			Percentage of patients aged 18 years and older seen during the reporting period who were screened for high blood pressure AND a recommended follow-up plan is documented based on the current blood pressure (BP) reading as indicated.	Services
! (Appropriate Use)	N/A	331	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Adult Sinusitis: Antibiotic Prescribed for Acute Sinusitis (Overuse):** Percentage of patients, aged 18 years and older, with a diagnosis of acute sinusitis who were prescribed an antibiotic within 10 days after onset of symptoms.	American Academy of Otolaryngology-Head and Neck Surgery
! (Appropriate Use)	N/A	332	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Adult Sinusitis: Appropriate Choice of Antibiotic: Amoxicillin With or Without Clavulanate Prescribed for Patients with Acute Bacterial Sinusitis (Appropriate Use):** Percentage of patients aged 18 years and older with a diagnosis of acute bacterial sinusitis that were prescribed amoxicillin, with or without clavulanate, as a first line antibiotic at the time of diagnosis.	American Academy of Otolaryngology-Head and Neck Surgery
! (Appropriate Use)	N/A	333	N/A	MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Adult Sinusitis: Computerized Tomography (CT) for Acute Sinusitis (Overuse):** Percentage of patients aged 18 years and older with a diagnosis of acute sinusitis who had a computerized tomography (CT) scan of the paranasal sinuses ordered at the time of diagnosis or received within 28 days after date of diagnosis.	American Academy of Otolaryngology-Head and Neck Surgery
* ! (Efficiency)	N/A	415	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Emergency Medicine: Emergency Department Utilization of CT for Minor Blunt Head Trauma for Patients Aged 18 Years and Older:** Percentage of emergency department visits for patients aged 18 years and older who presented with a minor blunt head trauma who had a head CT for trauma ordered by an emergency care provider who have an indication for a head CT.	American College of Emergency Physicians
* ! (Efficiency)	N/A	416	N/A	Part B Claims Measure Specifications, MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Emergency Medicine: Emergency Department Utilization of CT for Minor Blunt Head Trauma for Patients Aged 2 through 17 Years:** Percentage of emergency department visits for patients aged 2 through 17 years who presented with a minor blunt head trauma who had a head CT for trauma ordered by an emergency care provider who are classified as low risk according to the Pediatric Emergency Care Applied Research Network (PECARN) prediction rules for traumatic brain injury.	American College of Emergency Physicians

Comment: One commenter noted that measure Q066: Appropriate Testing for Children with Pharyngitis measure promotes neither efficiency nor cost reduction in the emergency setting. The commenter noted that when a strep test is ordered in the emergency setting, it must be run through a lab system, rather than at the point of care, as a result of Clinical Laboratory Improvement Amendments (CLIA) requirements. As a result, a reflex culture is also ordered and results sent back to the ED, which is then responsible for calling back patients who are often not part of the larger system. Because this measure promotes inefficient practices and actually drives costs up, the commenter recommended not including it in this measure set.

Response: We disagree as we worked extensively with stakeholders to solicit their feedback and ensure the measures under this measure set were relevant for this specialty. We believe measure Q066 is relevant to the emergency setting and is currently standard to perform Group A Strep testing prior to treatment with an antibiotic and that testing could be at the point of care or in a lab. Both approaches are used routinely in acute care settings across the country. We acknowledge the inconvenience of the need to contact patients regarding results that occur well after the patient visit (for ED, Urgent Care, Non-Primary Care Physicians, etc.), but we would still consider that process the standard of care. Further, point of care testing is common in ambulatory care settings including Emergency Departments. Therefore, we believe this measure does promote cost reduction to avoid unnecessary antibiotic treatment to reduce antibiotic resistance which can contribute to increased health costs. We believe this outweighs the cost of appropriate testing and does not promote the overuse of antibiotics to save time.

Comment: One commenter expressed concern the denominator used for measure Q107: Adult Major Depressive Disorder: Suicide Risk Assessment relies on a diagnosis that is generally not used in emergency departments, and noted that in the future the measure should be broadened to include other initial diagnoses, such as

B.7. Emergency Medicine

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**

Depression, Not Otherwise Specified, that are much more commonly used in the ED.

Response: We disagree as we worked extensively with stakeholders to solicit their feedback and ensure the measures under this measure set were relevant for this specialty. This measure was originally developed as part of a suite of measures to improve care for adults with major depressive disorder and was specified and tested for that population. We consulted with the measure steward and they will give consideration to your suggestion for future updates and retesting. We believe this measure is very important to assess for suicide risk in the ED. While adding more general depression diagnosis codes may be appropriate, this revision would need to be vetted through the measure steward and stakeholders for future implementation.

Comment: One commenter supported measure Q187: Stroke and Stroke Rehabilitation: Thrombolytic Therapy in this measure set. The commenter encouraged CMS to continue to consider measurement and payment of high quality, cost effective stroke care in all settings, including in the hospital inpatient setting.

Response: We thank the commenter for their support of measure Q187: Stroke and Stroke Rehabilitation: Thrombolytic Therapy.

FINAL ACTION: We are finalizing the *Emergency Medicine Specialty Measure Set* as proposed for the 2019 Performance Period and future years.

B.8. Obstetrics/Gynecology

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Obstetrics/Gynecology specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. We may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. In addition, as outlined at the end of this table, we removed the following quality measures from the specialty set: Quality IDs: 369, and 447.

B.8. Obstetrics/Gynecology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Care Coordination)	0326	047	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Advance Care Plan:** Percentage of patients aged 65 years and older who have an advance care plan or surrogate decision maker documented in the medical record or documentation in the medical record that an advance care plan was discussed but the patient did not wish or was not able to name a surrogate decision maker or provide an advance care plan.	National Committee for Quality Assurance
	N/A	048	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Urinary Incontinence: Assessment of Presence or Absence of Urinary Incontinence in Women Aged 65 Years and Older:** Percentage of female patients aged 65 years and older who were assessed for the presence or absence of urinary incontinence within 12 months.	National Committee for Quality Assurance
! (Patient Experience)	N/A	050	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Person and Caregiver-Centered Experience and Outcomes	**Urinary Incontinence: Plan of Care for Urinary Incontinence in Women Aged 65 Years and Older:** Percentage of female patients aged 65 years and older with a diagnosis of urinary incontinence with a documented plan of care for urinary incontinence at least once within 12 months.	National Committee for Quality Assurance
	0041	110	CMS147 v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Influenza Immunization:** Percentage of patients aged 6 months and older seen for a visit between October 1 and March 31 who received an influenza immunization OR who reported previous receipt of an influenza immunization.	Physician Consortium for Performance Improvement Foundation (PCPI®)
*	N/A	111	CMS127 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Pneumococcal Vaccination Status for Older Adults:** Percentage of patients 65 years of age and older who have ever received a pneumococcal vaccine	National Committee for Quality Assurance
§	2372	112	CMS125 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Breast Cancer Screening:** Percentage of women 51 - 74 years of age who had a mammogram to screen for breast cancer.	National Committee for Quality Assurance
* §	0421	128	CMS69v 7	Medicare Part B Claims	Process	Community/ Population	**Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up Plan:**	Centers for Medicare &

B.8. Obstetrics/Gynecology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
				Measure Specifications, eCQM Specifications, MIPS CQMs Specifications		Health	Percentage of patients aged 18 years and older with a BMI documented during the current encounter or during the previous 12 months AND with a BMI outside of normal parameters, a follow-up plan is documented during the encounter or during the previous 12 months of the current encounter. Normal Parameters: Age 18 years and older BMI => 18.5 and < 25 kg/m2.	Medicaid Services
! (Patient Safety)	0419	130	CMS68v 8	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Documentation of Current Medications in the Medical Record:** Percentage of visits for patients aged 18 years and older for which the eligible professional or eligible clinician attests to documenting a list of current medications using all immediate resources available on the date of the encounter. This list must include ALL known prescriptions, over-the-counters, herbals, and vitamin/mineral/dietary (nutritional) supplements AND must contain the medications' name, dosage, frequency and route of administration.	Centers for Medicare & Medicaid Services
§	0028	226	CMS138 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community/P opulation Health	**Preventive Care and Screening: Tobacco Use: Screening and Cessation Intervention:** a. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months. b. Percentage of patients aged 18 years and older who were screened for tobacco use and identified as a tobacco user who received tobacco cessation intervention. c .Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months AND who received cessation counseling intervention if identified as a tobacco user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
§ ! (Outcome)	0018	236	CMS165 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Intermedi ate Outcome	Effective Clinical Care	**Controlling High Blood Pressure:** Percentage of patients 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled (<140/90mmHg) during the measurement period.	National Committee for Quality Assurance
! (Care Coordinatio n)	N/A	265	N/A	MIPS CQMs Specifications	Process	Communicat ion and Care Coordination	**Biopsy Follow Up:** Percentage of new patients whose biopsy results have been reviewed and communicated to the primary care/referring physician and patient by the performing physician.	American Academy of Dermatology
§	0032	309	CMS124 v7	eCQM Specifications	Process	Effective Clinical Care	**Cervical Cancer Screening:** Percentage of women 21–64 years of age who were screened for cervical cancer using either of the following criteria: • Women age 21–64 who had cervical cytology performed every 3 years • Women age 30–64 who had cervical cytology/human papillomavirus (HPV) co-testing performed every 5 years.	National Committee for Quality Assurance
	0033	310	CMS153 v7	eCQM Specifications	Process	Community/ Population	**Chlamydia Screening for Women:** Percentage of women 16-24 years of age who were	National Committee for

B.8. Obstetrics/Gynecology

MEASURES FINALIZED FOR **INCLUSION**								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
						Health	identified as sexually active and who had at least one test for chlamydia during the measurement period.	Quality Assurance
	N/A	317	CMS22v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Screening for High Blood Pressure and Follow-Up Documented:** Percentage of patients aged 18 years and older seen during the reporting period who were screened for high blood pressure AND a recommended follow-up plan is documented based on the current blood pressure (BP) reading as indicated.	Centers for Medicare & Medicaid Services
! (Care Coordination)	N/A	374	CMS50v7	eCQM Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Closing the Referral Loop: Receipt of Specialist Report:** Percentage of patients with referrals, regardless of age, for which the referring provider receives a report from the provider to whom the patient was referred.	Centers for Medicare & Medicaid Services
	N/A	402	N/A	MIPS CQMs Specifications	Process	Community/ Population Health	**Tobacco Use and Help with Quitting Among Adolescents:** The percentage of adolescents 12 to 20 years of age with a primary care visit during the measurement year for whom tobacco use status was documented and received help with quitting if identified as a tobacco user.	National Committee for Quality Assurance
	0053	418	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Osteoporosis Management in Women Who Had a Fracture:** The percentage of women age 50-85 who suffered a fracture in the 6 months prior to the performance period through June 30 of the performance period and who either had a bone mineral density test or received a prescription for a drug to treat osteoporosis in the 6 months after the fracture.	National Committee for Quality Assurance
! (Patient Safety)	2063	422	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Performing Cystoscopy at the Time of Hysterectomy for Pelvic Organ Prolapse to Detect Lower Urinary Tract Injury:** Percentage of patients who undergo cystoscopy to evaluate for lower urinary tract injury at the time of hysterectomy for pelvic organ prolapse.	American Urogynecologic Society
	N/A	428	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Pelvic Organ Prolapse: Preoperative Assessment of Occult Stress Urinary Incontinence:** Percentage of patients undergoing appropriate preoperative evaluation of stress urinary incontinence prior to pelvic organ prolapse surgery per ACOG/AUGS/AUA guidelines.	American Urogynecologic Society
! (Patient Safety)	N/A	429	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Pelvic Organ Prolapse: Preoperative Screening for Uterine Malignancy:** Percentage of patients who are screened for uterine malignancy prior to vaginal closure or obliterative surgery for pelvic organ prolapse.	American Urogynecologic Society
	2152	431	N/A	MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Unhealthy Alcohol Use: Screening & Brief Counseling:** Percentage of patients aged 18 years and older who were screened for unhealthy alcohol use using a systematic screening method at least once within the last 24 months AND who received brief counseling if identified as an unhealthy alcohol user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Outcome)	N/A	432	N/A	MIPS CQMs Specifications	Outcome	Patient Safety	**Proportion of Patients Sustaining a Bladder Injury at the Time of any Pelvic Organ Prolapse Repair:** Percentage of patients undergoing any surgery to	American Urogynecologic Society

B.8. Obstetrics/Gynecology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
							repair pelvic organ prolapse who sustains an injury to the bladder recognized either during or within 30 days after surgery.	
! (Outcome)	N/A	433	N/A	MIPS CQMs Specifications	Outcome	Patient Safety	**Proportion of Patients Sustaining a Bowel Injury at the Time of any Pelvic Organ Prolapse Repair:** Percentage of patients undergoing surgical repair of pelvic organ prolapse that is complicated by a bowel injury at the time of index surgery that is recognized intraoperatively or within 30 days after surgery.	American Urogynecologic Society
! (Outcome)	N/A	434	N/A	MIPS CQMs Specifications	Outcome	Patient Safety	**Proportion of Patients Sustaining A Ureter Injury at the Time of any Pelvic Organ Prolapse Repair:** Percentage of patients undergoing pelvic organ prolapse repairs who sustain an injury to the ureter recognized either during or within 30 days after surgery.	American Urogynecologic Society
§ ! (Patient Safety)	N/A	443	N/A	MIPS CQMs Specifications	Process	Patient Safety	**Non-Recommended Cervical Cancer Screening in Adolescent Females:** The percentage of adolescent females 16–20 years of age screened unnecessarily for cervical cancer.	National Committee for Quality Assurance
§ ! (Care Coordination)	N/A	448	N/A	MIPS CQMs Specifications	Process	Communication and Care Coordination	**Appropriate Work Up Prior to Endometrial Ablation:** Percentage of women, aged 18 years and older, who undergo endometrial sampling or hysteroscopy with biopsy and results documented before undergoing an endometrial ablation.	Centers for Medicare & Medicaid Services
! (Appropriate Use)		472	CMS249 v1	eCQM Specifications	Process	Efficiency and Cost Reduction	**Appropriate Use of DXA Scans in Women Under 65 Years Who Do Not Meet the Risk Factor Profile for Osteoporotic Fracture:** Percentage of female patients aged 50 to 64 without select risk factors for osteoporotic fracture who received an order for a dual-energy x-ray absorptiometry (DXA) scan during the measurement period.	Centers for Medicare & Medicaid Services
		475	CMS349 v1	eCQM Specifications	Process	Community/ Population Health	**HIV Screening:** Percentage of patients 15-65 years of age who have ever been tested for human immunodeficiency virus (HIV).	Centers for Disease Control and Prevention

We did not receive specific comments regarding the measures included in this specialty measure set.

FINAL ACTION: We are finalizing the *Obstetrics/Gynecology Specialty Measure Set* as proposed for the 2019 Performance Period and future years. Note: As noted in our responses to public comments in Table C, measure Q048 is not finalized for removal from this measure set as proposed; therefore, it is retained in this measure set for the 2019 Performance Period and future years.

B.8. Obstetrics/Gynecology

MEASURES FINALIZED FOR REMOVAL

Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.

NQF #	Quality #	CMS eCQM ID	Collection Type	Measure Type	National Quality Strategy Domain	Measure Title and Description	Measure Steward	Rationale for Removal
N/A	369	CMS158v 7	eCQM Specifications	Process	Effective Clinical Care	**Pregnant women that had HBsAg testing:** This measure identifies pregnant women who had an HBsAg (hepatitis B) test during their pregnancy.	OptumInsight	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	447	N/A	MIPS CQMs Specifications	Process	Commu nity/ Populati on Health	**Chlamydia Screening and Follow Up:** The percentage of female adolescents 16 years of age who had a chlamydia screening test with proper follow-up during the measurement period.	National Committee for Quality Assurance	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."

We did not receive specific comments regarding the proposed removal of measures from this specialty measure set.

FINAL ACTION: We are finalizing the removal of measures from the *Obstetrics/Gynecology Specialty Measure Set* as proposed for the 2019 Performance Period and future years. However, as noted in our responses to public comments in Table C, we are not finalizing Q048 for removal from this measure set.

B.9. Ophthalmology

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Ophthalmology specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. CMS may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. In addition, as outlined at the end of this table, we removed the following quality measures from the specialty set: Quality IDs: 018, and 140.

B.9. Ophthalmology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
	0087	014	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Age-Related Macular Degeneration (AMD): Dilated Macular Examination:** Percentage of patients aged 50 years and older with a diagnosis of age-related macular degeneration (AMD) who had a dilated macular examination performed which included documentation of the presence or absence of macular thickening or geographic atrophy or hemorrhage AND the level of macular degeneration severity during one or more office visits within 12 months.	American Academy of Ophthalmology
! (Care Coordination)	0089	019	CMS142v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Diabetic Retinopathy: Communication with the Physician Managing Ongoing Diabetes Care:** Percentage of patients aged 18 years and older with a diagnosis of diabetic retinopathy who had a dilated macular or fundus exam performed with documented communication to the physician who manages the ongoing care of the patient with diabetes mellitus regarding the findings of the macular or fundus exam at least once within 12 months.	Physician Consortium for Performance Improvement Foundation (PCPI®)
* §	0055	117	CMS131v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Clinical Care	**Diabetes: Eye Exam:** Percentage of patients 18 - 75 years of age with diabetes who had a retinal or dilated eye exam by an eye care professional during the measurement period or a negative retinal exam (no evidence of retinopathy) in the 12 months prior to the measurement period.	National Committee for Quality Assurance
	0086	012	CMS143v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Primary Open-Angle Glaucoma (POAG): Optic Nerve Evaluation:** Percentage of patients aged 18 years and older with a diagnosis of primary open-angle glaucoma (POAG) who have an optic nerve head evaluation during one or more office visits within 12 months.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Patient Safety)	0419	130	CMS68v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Documentation of Current Medications in the Medical Record:** Percentage of visits for patients aged 18 years and older for which the eligible professional or eligible clinician attests to documenting a list of current medications using all immediate resources available on the date of the encounter. This list must include ALL known prescriptions, over-the-counters, herbals, and vitamin/mineral/dietary (nutritional) supplements AND must contain the medications' name, dosage, frequency and route of administration.	Centers for Medicare & Medicaid Services
! (Outcome)	0563	141	N/A	Medicare Part B Claims	Outcome	Communication and Care	**Primary Open-Angle Glaucoma (POAG): Reduction of Intraocular Pressure (IOP) by**	American Academy of

B.9. Ophthalmology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
				Measure Specifications, MIPS CQMs Specifications		Coordination	**15% OR Documentation of a Plan of Care:** Percentage of patients aged 18 years and older with a diagnosis of primary open-angle glaucoma (POAG) whose glaucoma treatment has not failed (the most recent IOP was reduced by at least 15 percent from the pre-intervention level) OR if the most recent IOP was not reduced by at least 15 percent from the pre- intervention level, a plan of care was documented within 12 months.	Ophthalmology
! (Outcome)	0565	191	CMS133v7	eCQM Specifications, MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Cataracts: 20/40 or Better Visual Acuity within 90 Days Following Cataract Surgery:** Percentage of patients aged 18 years and older with a diagnosis of uncomplicated cataract who had cataract surgery and no significant ocular conditions impacting the visual outcome of surgery and had best-corrected visual acuity of 20/40 or better (distance or near) achieved within 90 days following the cataract surgery.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Outcome)	0564	192	CMS132v7	eCQM Specifications, MIPS CQMs Specifications	Outcome	Patient Safety	**Cataracts: Complications within 30 Days Following Cataract Surgery Requiring Additional Surgical Procedures:** Percentage of patients aged 18 years and older with a diagnosis of uncomplicated cataract who had cataract surgery and had any of a specified list of surgical procedures in the 30 days following cataract surgery which would indicate the occurrence of any of the following major complications: retained nuclear fragments, endophthalmitis, dislocated or wrong power IOL, retinal detachment, or wound dehiscence.	Physician Consortium for Performance Improvement Foundation (PCPI®)
§	0028	226	CMS138v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Tobacco Use: Screening and Cessation Intervention:** a. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months. b. Percentage of patients aged 18 years and older who were screened for tobacco use and identified as a tobacco user who received tobacco cessation intervention. c. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months AND who received cessation counseling intervention if identified as a tobacco user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Outcome)	1536	303	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person Caregiver-Centered Experience and Outcomes	**Cataracts: Improvement in Patient's Visual Function within 90 Days Following Cataract Surgery:** Percentage of patients aged 18 years and older who had cataract surgery and had improvement in visual function achieved within 90 days following the cataract surgery, based on completing a pre-operative and post-operative visual function survey.	American Academy of Ophthalmology
! (Care Coordination)	N/A	374	CMS50v7	eCQM Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Closing the Referral Loop: Receipt of Specialist Report:** Percentage of patients with referrals, regardless of age, for which the referring provider receives a report from the provider to whom the patient was referred.	Centers for Medicare & Medicaid Services

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MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Outcome)	N/A	384	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Adult Primary Rhegmatogenous Retinal Detachment Surgery: No Return to the Operating Room Within 90 Days of Surgery:** Patients aged 18 years and older who had surgery for primary rhegmatogenous retinal detachment who did not require a return to the operating room within 90 days of surgery.	American Academy of Ophthalmology
! (Outcome)	N/A	385	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Adult Primary Rhegmatogenous Retinal Detachment Surgery: Visual Acuity Improvement Within 90 Days of Surgery:** Patients aged 18 years and older who had surgery for primary rhegmatogenous retinal detachment and achieved an improvement in their visual acuity, from their preoperative level, within 90 days of surgery in the operative eye.	American Academy of Ophthalmology
! (Outcome)	N/A	388	N/A	MIPS CQMs Specifications	Outcome	Patient Safety	**Cataract Surgery with Intra-Operative Complications (Unplanned Rupture of Posterior Capsule Requiring Unplanned Vitrectomy:** Percentage of patients aged 18 years and older who had cataract surgery performed and had an unplanned rupture of the posterior capsule requiring vitrectomy.	American Academy of Ophthalmology
! (Outcome)	N/A	389	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Cataract Surgery: Difference Between Planned and Final Refraction:** Percentage of patients aged 18 years and older who had cataract surgery performed and who achieved a final refraction within +/- 0.5 diopters of their planned (target) refraction.	American Academy of Ophthalmology
We did not receive specific comments regarding the measures included in this specialty measure set. **FINAL ACTION:** We are finalizing the *Ophthalmology Specialty Measure Set* as proposed for the 2019 Performance Period and future years.								

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MEASURES FINALIZED FOR REMOVAL Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.								
NQF #	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**	**Rationale for Removal**
0088	018	CMS167 v7	eCQM Specifications	Process	Effective Clinical Care	**Diabetic Retinopathy: Documentation of Presence or Absence of Macular Edema and Level of Severity of Retinopathy:** Percentage of patients aged 18 years and older with a diagnosis of diabetic retinopathy who had a dilated macular or fundus exam performed which included documentation of the level of severity of retinopathy and the presence or absence of macular edema during one or more office visits within 12 months.	Physician Consortium for Performance Improvement Foundation (PCPI®)	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
0566	140	N/A	Medicare Part B Claims	Process	Effective Clinical	**Age-Related Macular Degeneration (AMD): Counseling**	American Academy of	This measure is being removed from the 2019

B.9. Ophthalmology

			Measure Specifications, MIPS CQMs Specifications		Care	**on Antioxidant Supplement:** Percentage of patients aged 50 years and older with a diagnosis of age-related macular degeneration (AMD) or their caregiver(s) who were counseled within the 12-month performance period on the benefits and/or risks of the Age-Related Eye Disease Study (AREDS) 2 formulation for preventing progression of AMD**.**	Ophthalmology	program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."

Comment: One commenter disagreed with CMS' suggestion that measure Q18: Diabetic Retinopathy: Documentation of Presence or Absence of Macular Edema and Level of Severity of Retinopathy is duplicative of measure Q019: Diabetic Retinopathy: Communication with the Physician Managing Ongoing Diabetes Care. These two measures were developed by the measure steward not as duplicative, but rather as complementary measures to ensure the assessment of the level of retinopathy which comprises that which is communicated to the primary physician, thus promoting coordination of care of clinically meaningful information. The commenter recommended that CMS retain these two measures for the 2019 performance year.

Response: We appreciate the commenter's feedback on measure Q018: Diabetic Retinopathy: Documentation of Presence or Absence of Macular Edema and Level of Severity of Retinopathy. It is our goal to provide meaningful measures for eligible clinicians. We believe measure Q019: Diabetic Retinopathy: Communication with the Physician Managing Ongoing Diabetes Care fulfills a high priority area by promoting care coordination among eligible clinicians. Whereas measure Q018 does not address a high priority or produce clinical outcomes. It may be advantageous to combine these two measures to create a more robust testing and communication measure in the future. Measures Q018 and Q019 assess whether the level of severity of retinopathy was captured, but Q018 does not require the results to be communicated to the clinician managing the diabetes. The numerator of Measure 018 is considered the standard of care as it captures an assessment with no additional clinical action. We encourage the commenter to collaborate with measure developers to submit an alternative measure to the Call for Measures process.

Comment: One commenter opposed the removal of both measure Q012: Primary Open-Angle Glaucoma (POAG): Optic Nerve Evaluation and measure Q191: Cataracts: 20/40 or Better Visual Acuity within 90 Days Following Cataract Surgery because they noted that the removal will limit the quality measure options applicable to ophthalmologists. Other commenters opposed the proposal to remove measures Q018 - Diabetic Retinopathy: Documentation of Presence or Absence of Macular Edema and Level of Severity of Retinopathy; and Q140: Age-Related Macular Degeneration (AMD): Counseling on Antioxidant Supplement. The commenters noted that this is a significant number of measures to remove related to eye care, and represents a disproportionately large percentage of measures for which physicians are eligible to submit. The commenter further noted that while measure stewards are working to develop homegrown Qualified Clinical Data Registry (QCDR) measures, some Doctors of Optometry are not yet fully connected to the Measures and Outcomes Registry for Eyecare and others are still struggling to implement electronic health records. The commenter stated that these factors may limit certain clinicians' ability to perform in MIPS and therefore requested that CMS move slowly in the removal of these measures and to allow for additional time before these measures are phased out. Other commenters were concerned about the Ophthalmology measures that are being retired, as specialty specific measures are already generally very sparse and because clinicians who report via claims will not have six ophthalmology-related measures available in the measure set.

Response: To clarify, measure Q191 is not proposed for removal; therefore, the measure will remain in the program and will be included in the Ophthalmology Specialty Measure Set. With regard to other measures proposed for removal in this specialty set, we are committed to our goal to remove measures that are duplicative in clinical concept to other measures and to be consistent with ensuring measures are more meaningful. In addition, there are 14 measures proposed for inclusion in the Ophthalmology Specialty Measure Set that are suggested for this specialty which is more than the six measures currently required for meeting the quality performance category requirements. We are attempting to reduce reporting burden where measures are duplicative in concept or do not drive quality action by eligible clinician. We encourage the commenter to collaborate with measure developers to submit to the Call for Measures process so that the Ophthalmology specialty has additional quality measures.

Comment: One commenter opposed removal of measure Q012 because measure Q141, which is cited as duplicative to Q012 can only be reported via claims and registry/QCDR submission and not as an eCQM.

Response: We agree with the commenter's concern about Q141 not being reportable as an eCQM and, therefore, will not finalize measure Q012 for removal as previously proposed.

FINAL ACTION: We are finalizing the removal of measures from the *Ophthalmology Specialty Measure Set* as proposed for the 2019 Performance Period and future years. However, as noted in our responses to public comments in Table C, we are not finalizing the removal of measure Q012 from this measure set.

B.10. Orthopedic Surgery

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Orthopedic Surgery specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. CMS may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set.

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR INCLUSION								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Patient Safety)	0268	021	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Perioperative Care: Selection of Prophylactic Antibiotic – First OR Second Generation Cephalosporin:** Percentage of surgical patients aged 18 years and older undergoing procedures with the indications for a first OR second generation cephalosporin prophylactic antibiotic, who had an order for a first OR second generation cephalosporin for antimicrobial prophylaxis.	American Society of Plastic Surgeons
! (Patient Safety)	N/A	023	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Perioperative Care: Venous Thromboembolism (VTE) Prophylaxis (When Indicated in ALL Patients):** Percentage of surgical patients aged 18 years and older undergoing procedures for which venous thromboembolism (VTE) prophylaxis is indicated in all patients, who had an order for Low Molecular Weight Heparin (LMWH), Low-Dose Unfractionated Heparin (LDUH), adjusted-dose warfarin, fondaparinux or mechanical prophylaxis to be given within 24 hours prior to incision time or within 24 hours after surgery end time.	American Society of Plastic Surgeons
! (Care Coordination)	N/A	024	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Communication with the Physician or Other Clinician Managing On-going Care Post-Fracture for Men and Women Aged 50 Years and Older:** Percentage of patients aged 50 years and older treated for a fracture with documentation of communication, between the physician treating the fracture and the physician or other clinician managing the patient's on-going care, that a fracture occurred and that the patient was or should be considered for osteoporosis treatment or testing. This measure is reported by the physician who treats the fracture and who therefore is held accountable for the communication.	National Committee for Quality Assurance
§ ! (Care Coordination) *	0097	046	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Medication Reconciliation Post-Discharge:** The percentage of discharges from any inpatient facility (for example hospital, skilled nursing facility, or rehabilitation facility) for patients 18 years of age and older seen within 30 days following discharge in the office by the physician, prescribing practitioner, registered nurse, or clinical pharmacist providing on-going care for whom the discharge medication list was reconciled with the current medication list in the outpatient medical record. This measure is submitted as three rates stratified by age group: • Submission Criteria 1: 18-64 years of age. • Submission Criteria 2: 65 years and older. • Total Rate: All patients 18 years of age and older.	National Committee for Quality Assurance
!	0326	047	N/A	Medicare Part B Claims	Process	Communi	**Advance Care Plan:**	National

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR **INCLUSION**								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
(Care Coordination)				Measure Specifications, MIPS CQMs Specifications		cation and Care Coordination	Percentage of patients aged 65 years and older who have an advance care plan or surrogate decision maker documented in the medical record or documentation in the medical record that an advance care plan was discussed but the patient did not wish or was not able to name a surrogate decision maker or provide an advance care plan.	Committee for Quality Assurance
! (Patient Experience)	N/A	109	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Person and Caregiver-Centered Experience and Outcomes	**Osteoarthritis (OA): Function and Pain Assessment:** Percentage of patient visits for patients aged 21 years and older with a diagnosis of osteoarthritis (OA) with assessment for function and pain.	American Academy of Orthopedic Surgeons
* §	0421	128	CMS69 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community/Population Health	**Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up Plan:** Percentage of patients aged 18 years and older with a BMI documented during the current encounter or during the previous 12 months AND with a BMI outside of normal parameters, a follow-up plan is documented during the encounter or during the previous 12 months of the current encounter. Normal Parameters: Age 18 years and older BMI => 18.5 and < 25 kg/m2.	Centers for Medicare & Medicaid Services
! (Patient Safety)	0419	130	CMS68 v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Documentation of Current Medications in the Medical Record:** Percentage of visits for patients aged 18 years and older for which the eligible professional or eligible clinician attests to documenting a list of current medications using all immediate resources available on the date of the encounter. This list must include ALL known prescriptions, over-the-counters, herbals, and vitamin/mineral/dietary (nutritional) supplements AND must contain the medications' name, dosage, frequency and route of administration.	Centers for Medicare & Medicaid Services
! (Care Coordination)	0420	131	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Pain Assessment and Follow-Up:** Percentage of visits for patients aged 18 years and older with documentation of a pain assessment using a standardized tool(s) on each visit AND documentation of a follow-up plan when pain is present.	Centers for Medicare & Medicaid Services
	0418	134	CMS2v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Screening for Depression and Follow-Up Plan:** Percentage of patients aged 12 years and older screened for depression on the date of the encounter using an age appropriate standardized depression screening tool AND if positive, a follow-up plan is documented on the date of the positive screen.	Centers for Medicare & Medicaid Services
! (Patient Safety)	0101	154	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Falls: Risk Assessment:** Percentage of patients aged 65 years and older with a history of falls who had a risk assessment for falls completed within 12 months.	National Committee for Quality Assurance
! (Care Coordination)	0101	155	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordinat	**Falls: Plan of Care:** Percentage of patients aged 65 years and older with a history of falls who had a plan of care for falls documented within 12 months.	National Committee for Quality Assurance

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR INCLUSION								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
						ion		
	N/A	178	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Rheumatoid Arthritis (RA): Functional Status Assessment:** Percentage of patients aged 18 years and older with a diagnosis of rheumatoid arthritis (RA) for whom a functional status assessment was performed at least once within 12 months.	American College of Rheumatology
	N/A	179	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Rheumatoid Arthritis (RA): Assessment and Classification of Disease Prognosis:** Percentage of patients aged 18 years and older with a diagnosis of rheumatoid arthritis (RA) who have an assessment and classification of disease prognosis at least once within 12 months.	American College of Rheumatology
	N/A	180	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Rheumatoid Arthritis (RA): Glucocorticoid Management** Percentage of patients aged 18 years and older with a diagnosis of rheumatoid arthritis (RA) who have been assessed for glucocorticoid use and, for those on prolonged doses of prednisone ≥ 10 mg daily (or equivalent) with improvement or no change in disease activity, documentation of glucocorticoid management plan within 12 months.	American College of Rheumatology
§	0028	226	CMS138v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Tobacco Use: Screening and Cessation Intervention:** a. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months. b. Percentage of patients aged 18 years and older who were screened for tobacco use and identified as a tobacco user who received tobacco cessation intervention. c. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months AND who received cessation counseling intervention if identified as a tobacco user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
	N/A	317	CMS22v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community/ Population Health	**Preventive Care and Screening: Screening for High Blood Pressure and Follow-Up Documented:** Percentage of patients aged 18 years and older seen during the reporting period who were screened for high blood pressure AND a recommended follow-up plan is documented based on the current blood pressure (BP) reading as indicated.	Centers for Medicare & Medicaid Services
! (Care Coordination)	N/A	350	N/A	MIPS CQMs Specifications	Process	Communication and Care Coordination	**Total Knee Replacement: Shared Decision-Making: Trial of Conservative (Non-surgical) Therapy:** Percentage of patients regardless of age undergoing a total knee replacement with documented shared decision-making with discussion of conservative (non-surgical) therapy (for example nonsteroidal anti-inflammatory drugs (NSAIDs), analgesics, weight loss, exercise, injections) prior to the procedure.	American Association of Hip and Knee Surgeons
! (Patient Safety)	N/A	351	N/A	MIPS CQMs Specifications	Process	Patient Safety	**Total Knee Replacement: Venous Thromboembolic and Cardiovascular Risk Evaluation:** Percentage of patients regardless of age undergoing a total knee replacement who are	American Association of Hip and Knee Surgeons

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR INCLUSION								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
							evaluated for the presence or absence of venous thromboembolic and cardiovascular risk factors within 30 days prior to the procedure (for example history of Deep Vein Thrombosis (DVT), Pulmonary Embolism (PE), Myocardial Infarction (MI), Arrhythmia and Stroke).	
! (Patient Safety)	N/A	352	N/A	MIPS CQMs Specifications	Process	Patient Safety	**Total Knee Replacement: Preoperative Antibiotic Infusion with Proximal Tourniquet:** Percentage of patients regardless of age undergoing a total knee replacement who had the prophylactic antibiotic completely infused prior to the inflation of the proximal tourniquet.	American Association of Hip and Knee Surgeons
! (Patient Safety)	N/A	353	N/A	MIPS CQMs Specifications	Process	Patient Safety	**Total Knee Replacement: Identification of Implanted Prosthesis in Operative Report:** Percentage of patients regardless of age undergoing a total knee replacement whose operative report identifies the prosthetic implant specifications including the prosthetic implant manufacturer, the brand name of the prosthetic implant and the size of each prosthetic implant.	American Association of Hip and Knee Surgeons
! (Patient Experience)	N/A	358	N/A	MIPS CQMs Specifications	Process	Person and Caregiver -Centered Experience and Outcomes	**Patient-Centered Surgical Risk Assessment and Communication:** Percentage of patients who underwent a non-emergency surgery who had their personalized risks of postoperative complications assessed by their surgical team prior to surgery using a clinical data-based, patient-specific risk calculator and who received personal discussion of those risks with the surgeon.	American College of Surgeons
! (Care Coordination)	N/A	374	CMS50 v7	eCQM Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Closing the Referral Loop: Receipt of Specialist Report:** Percentage of patients with referrals, regardless of age, for which the referring provider receives a report from the provider to whom the patient was referred.	Centers for Medicare & Medicaid Services
!	N/A	375	CMS66 v7	eCQM Specifications	Process	Person and Caregiver -Centered Experience and Outcomes	**Functional Status Assessment for Total Knee Replacement:** Changes to the measure description: Percentage of patients 18 years of age and older who received an elective primary total knee arthroplasty (TKA) who completed baseline and follow-up patient-reported and completed a functional status assessment within 90 days prior to the surgery and in the 270-365 days after the surgery.	Centers for Medicare & Medicaid Services
! (Patient Experience)	N/A	376	CMS56 v7	eCQM Specifications	Process	Person and Caregiver -Centered Experience and Outcomes	**Functional Status Assessment for Total Hip Replacement:** Percentage of patients 18 years of age and older with who received an elective primary total hip arthroplasty (THA) who completed baseline and follow-up patient-reported and completed a functional status assessment within 90 days prior to the surgery and in the 270-365 days after the surgery.	Centers for Medicare & Medicaid Services
	N/A	402	N/A	MIPS CQMs Specifications	Process	Community/ Population Health	**Tobacco Use and Help with Quitting Among Adolescents:** The percentage of adolescents 12 to 20 years of age with a primary care visit during the measurement year for whom tobacco use status was documented and received help with quitting if identified as a tobacco user.	National Committee for Quality Assurance

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR INCLUSION								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Opioid)	N/A	408	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Opioid Therapy Follow-up Evaluation:** All patients 18 and older prescribed opiates for longer than 6 weeks duration who had a follow-up evaluation conducted at least every 3 months during Opioid Therapy documented in the medical record.	American Academy of Neurology
! (Opioid)	N/A	412	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Documentation of Signed Opioid Treatment Agreement:** All patients 18 and older prescribed opiates for longer than 6 weeks duration who signed an opioid treatment agreement at least once during Opioid Therapy documented in the medical record.	American Academy of Neurology
! (Opioid)	N/A	414	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Evaluation or Interview for Risk of Opioid Misuse:** All patients 18 and older prescribed opiates for longer than 6 weeks duration evaluated for risk of opioid misuse using a brief validated instrument (for example Opioid Risk Tool, SOAPP-R) or patient interview documented at least once during Opioid Therapy in the medical record.	American Academy of Neurology
	0053	418	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Osteoporosis Management in Women Who Had a Fracture:** The percentage of women age 50-85 who suffered a fracture in the 6 months prior to the performance period through June 30 of the performance period and who either had a bone mineral density test or received a prescription for a drug to treat osteoporosis in the 6 months after the fracture.	National Committee for Quality Assurance
* ! (Outcome)	N/A	459	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver -Centered Experience and Outcomes	**Average Change in Back Pain Following Lumbar Discectomy / Laminotomy:** The average change (preoperative to 3 months postoperative) in back pain for patients 18 years of age or older who had lumbar discectomy /laminotomy procedure.	MN Community Measurement
* ! (Outcome)	N/A	460	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver -Centered Experience and Outcomes	**Average Change in Back Pain Following Lumbar Fusion:** The average change (preoperative to 1 year postoperative) in back pain for patients 18 years of age or older who had lumbar spine fusion surgery.	MN Community Measurement
* ! (Outcome)	N/A	461	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver -Centered Experience and Outcomes	**Average Change in Leg Pain Following Lumbar Discectomy / Laminotomy:** The average change (preoperative to 3 months postoperative) in leg pain for patients 18 years of age or older who had lumbar discectomy / laminotomy procedure.	MN Community Measurement
! (Outcome)	2643	469	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver -Centered Experience and Outcomes	**Average Change in Functional Status Following Lumbar Spine Fusion Surgery:** For patients age 18 and older undergoing lumbar spine fusion surgery, the average change from pre-operative functional status to 1 year (9 to 15 months) post-operative functional status using th Oswestry Disability Index (ODI version 2.1a) patient reported outcome tool.	Minnesota Community Measurement
! (Outcome)	2653	470	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver	**Average Change in Functional Status Following Total Knee Replacement Surgery:** For patients age 18 and older undergoing total	Minnesota Community Measureme

B.10. Orthopedic Surgery

MEASURES FINALIZED FOR **INCLUSION**								
Indicator (High Priority Type)	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
						-Centered Experienc e and Outcomes	knee replacement surgery, the average change from pre-operative functional status to 1 year (9 to 15 months) post-operative functional status using the Oxford Knee Score (OKS) patient reported outcome tool.	nt
! (Outcome)	N/A	471	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver-Centered Experience and Outcomes	**Average Change in Functional Status Following Lumbar Discectomy Laminotomy Surgery:** For patients age 18 and older undergoing lumbar discectomy laminotomy surgery, the average change from pre-operative functional status to 3 months (6 to 20 weeks) post-operative functional status using the Oswestry Disability Index (ODI version 2.1a) patient reported outcome tool.	Minnesota Community Measureme nt
! (Patient Experience)	N/A	473	N/A	MIPS CQMs Specifications	Patient Reported Outcome	Person and Caregiver-Centered Experience and Outcomes	**Average Change in Leg Pain Following Lumbar Spine Fusion Surgery:** For patients age 18 and older undergoing lumbar spine fusion surgery, the average change from pre-operative leg pain to 1 year (9 to 15 months) post-operative leg pain using the Visual Analog Scale (VAS) patient reported outcome tool.	Minnesota Community Measureme nt
We did not receive specific comments regarding the measures included in this specialty measure set.								
FINAL ACTION: We are finalizing the *Orthopedic Surgery Specialty Measure Set* as proposed for the 2019 Performance Period and future years with the exception of the newly proposed composite measure: Falls: Screening, Risk-Assessment, and Plan of Care to Prevent Future Falls. We are no longer finalizing the inclusion of the composite falls measure because it must be fully vetted to utilize standardized tools that would appropriately identify the at-risk patient population. In addition, as noted in our responses to public comments in Table C, measures Q154, Q155, and Q375 are not finalized for removal from this measure set as proposed; therefore, they will be retained in this measure set for the 2019 Performance Period and future years.								

B.11. Otolaryngology

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Otolaryngology specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. CMS may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. In addition, as outlined at the end of this table, we removed the following quality measures from the specialty set: Quality IDs: 276, 278, and 334.

B.11. Otolaryngology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Patient Safety)	0268	021	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Perioperative Care: Selection of Prophylactic Antibiotic – First OR Second Generation Cephalosporin:** Percentage of surgical patients aged 18 years and older undergoing procedures with the indications for a first OR second generation cephalosporin prophylactic antibiotic, who had an order for a first OR second generation cephalosporin for antimicrobial prophylaxis.	American Society of Plastic Surgeons
! (Patient Safety)	N/A	023	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Perioperative Care: Venous Thromboembolism (VTE) Prophylaxis (When Indicated in ALL Patients):** Percentage of surgical patients aged 18 years and older undergoing procedures for which venous thromboembolism (VTE) prophylaxis is indicated in all patients, who had an order for Low Molecular Weight Heparin (LMWH), Low-Dose Unfractionated Heparin (LDUH), adjusted-dose warfarin, fondaparinux or mechanical prophylaxis to be given within 24 hours prior to incision time or within 24 hours after surgery end time.	American Society of Plastic Surgeons
! (Care Coordination)	0326	047	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Advance Care Plan:** Percentage of patients aged 65 years and older who have an advance care plan or surrogate decision maker documented in the medical record or documentation in the medical record that an advance care plan was discussed but the patient did not wish or was not able to name a surrogate decision maker or provide an advance care plan.	National Committee for Quality Assurance
! (Appropriate Use)	0069	065	CMS154v7	eCQM Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Appropriate Treatment for Children with Upper Respiratory Infection (URI):** Percentage of children 3 months through 18 years of age who were diagnosed with upper respiratory infection (URI) and were not dispensed an antibiotic prescription on or 3 days after the episode.	National Committee for Quality Assurance
! (Appropriate Use)	0653	091	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Acute Otitis Externa (AOE): Topical Therapy:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were prescribed topical preparations.	American Academy of Otolaryngology-Head and Neck Surgery
! (Appropriate Use)	0654	093	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Acute Otitis Externa (AOE): Systemic Antimicrobial Therapy – Avoidance of Inappropriate Use:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were not prescribed systemic antimicrobial therapy.	American Academy of Otolaryngology -Head and Nec Surgery
	0041	110	CMS147v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface	Process	Community / Population Health	**Preventive Care and Screening: Influenza Immunization:** Percentage of patients aged 6 months and older seen for a visit between October 1 and March 31 who received an influenza immunization OR who reported previous receipt of an influenza immunization.	Physician Consortium for Performance Improvement Foundation (PCPI®)

B.11. Otolaryngology

MEASURES FINALIZED FOR **INCLUSION**								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
				Measure Specifications, MIPS CQMs Specifications				
*	N/A	111	CMS127v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community / Population Health	**Pneumococcal Vaccination Status for Older Adults:** Percentage of patients 65 years of age and older who have ever received a pneumococcal vaccine.	National Committee for Quality Assurance
* §	0421	128	CMS69 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community /Population Health	**Preventive Care and Screening: Body Mass Index (BMI) Screening and Follow-Up Plan:** Percentage of patients aged 18 years and older with a BMI documented during the current encounter or during the previous 12 months AND with a BMI outside of normal parameters, a follow-up plan is documented during the encounter or during the previous 12 months of the current encounter. Normal Parameters: Age 18 years and older BMI => 18.5 and < 25 kg/m2.	Centers for Medicare & Medicaid Services
! (Patient Safety)	0419	130	CMS68 v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Documentation of Current Medications in the Medical Record:** Percentage of visits for patients aged 18 years and older for which the eligible professional or eligible clinician attests to documenting a list of current medications using all immediate resources available on the date of the encounter. This list must include ALL known prescriptions, over-the-counters, herbals, and vitamin/mineral/dietary (nutritional) supplements AND must contain the medications' name, dosage, frequency and route of administration.	Centers for Medicare & Medicaid Services
! (Patient Safety)	0101	154	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Patient Safety	**Falls: Risk Assessment:** Percentage of patients aged 65 years and older with a history of falls who had a risk assessment for falls completed within 12 months.	National Committee for Quality Assurance
! (Care Coordination)	0101	155	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Falls: Plan of Care:** Percentage of patients aged 65 years and older with a history of falls who had a plan of care for falls documented within 12 months.	National Committee for Quality Assurance
§	0028	226	CMS138v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community /Population Health	**Preventive Care and Screening: Tobacco Use: Screening and Cessation Intervention:** a. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months. b. Percentage of patients aged 18 years and older who were screened for tobacco use and identified as a tobacco user who received tobacco cessation intervention. c. Percentage of patients aged 18 years and older who were screened for tobacco use one or more times within 24 months AND who received cessation counseling intervention if identified as a tobacco user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Care Coordination)	N/A	265	N/A	MIPS CQMs Specifications	Process	Communication and Care	**Biopsy Follow Up:** Percentage of new patients whose biopsy results have been reviewed and communicated to the	American Academy of Dermatology

B.11. Otolaryngology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
						Coordination	primary care/referring physician and patient by the performing physician.	
	N/A	277	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Severity Assessment at Initial Diagnosis:** Percentage of patients aged 18 years and older with a diagnosis of obstructive sleep apnea who had an apnea hypopnea index (AHI) or a respiratory disturbance index (RDI) measured at the time of initial diagnosis.	American Academy of Sleep Medicine
	N/A	279	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Assessment of Adherence to Positive Airway Pressure Therapy:** Percentage of visits for patients aged 18 years and older with a diagnosis of obstructive sleep apnea who were prescribed positive airway pressure therapy who had documentation that adherence to positive airway pressure therapy was objectively measured.	American Academy of Sleep Medicine
	N/A	317	CMS22 v7	Medicare Part B Claims Measure Specifications, eCQM Specifications, MIPS CQMs Specifications	Process	Community /Population Health	**Preventive Care and Screening: Screening for High Blood Pressure and Follow-Up Documented:** Percentage of patients aged 18 years and older seen during the reporting period who were screened for high blood pressure AND a recommended follow-up plan is documented based on the current blood pressure (BP) reading as indicated.	Centers for Medicare & Medicaid Services
	0101	318	CMS139v7	eCQM Specifications, CMS Web Interface Measure Specifications	Process	Patient Safety	**Falls: Screening for Future Fall Risk:** Percentage of patients 65 years of age and older who were screened for future fall risk during the measurement period.	National Committee for Quality Assurance
! (Appropriate Use)	N/A	331	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Adult Sinusitis: Antibiotic Prescribed for Acute Sinusitis (Overuse):** Percentage of patients, aged 18 years and older, with a diagnosis of acute sinusitis who were prescribed an antibiotic within 10 days after onset of symptoms.	American Academy of Otolaryngology -Head and Nec Surgery
! (Appropriate Use)	N/A	332	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Adult Sinusitis: Appropriate Choice of Antibiotic: Amoxicillin With or Without Clavulanate Prescribed for Patients with Acute Bacterial Sinusitis (Appropriate Use):** Percentage of patients aged 18 years and older with a diagnosis of acute bacterial sinusitis that were prescribed amoxicillin, with or without Clavulanate, as a first line antibiotic at the time of diagnosis.	American Academy of Otolaryngology -Head and Nec Surgery
! (Efficiency)	N/A	333	N/A	MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Adult Sinusitis: Computerized Tomography (CT) for Acute Sinusitis (Overuse):** Percentage of patients aged 18 years and older with a diagnosis of acute sinusitis who had a computerized tomography (CT) scan of the paranasal sinuses ordered at the time of diagnosis or received within 28 days after date of diagnosis.	American Academy of Otolaryngology -Head and Nec Surgery
! (Outcome)	N/A	357	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Surgical Site Infection (SSI):** Percentage of patients aged 18 years and older who had a surgical site infection (SSI).	American College of Surgeons
! (Patient Experience)	N/A	358	N/A	MIPS CQMs Specifications	Process	Person and Caregiver-Centered Experience and Outcomes	**Patient-Centered Surgical Risk Assessment and Communication:** Percentage of patients who underwent a non-emergency surgery who had their personalized risks of postoperative complications assessed by their surgical team prior to surgery using a clinical data-based, patient-specific risk calculator and who	American College of Surgeons

B.11. Otolaryngology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
							received personal discussion of those risks with the surgeon.	
! (Care Coordination)	N/A	374	CMS50 v7	eCQM Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Closing the Referral Loop: Receipt of Specialist Report:** Percentage of patients with referrals, regardless of age, for which the referring provider receives a report from the provider to whom the patient was referred.	Centers for Medicare & Medicaid Services
! (Outcome)	N/A	398	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Optimal Asthma Control:** Composite measure of the percentage of pediatric and adult patients whose asthma is well-controlled as demonstrated by one of three age appropriate patient reported outcome tools.	Minnesota Community Measurement
	N/A	402	N/A	MIPS CQMs Specifications	Process	Community / Population Health	**Tobacco Use and Help with Quitting Among Adolescents:** The percentage of adolescents 12 to 20 years of age with a primary care visit during the measurement year for whom tobacco use status was documented and received help with quitting if identified as a tobacco user.	National Committee for Quality Assurance
	2152	431	N/A	MIPS CQMs Specifications	Process	Community / Population Health	**Preventive Care and Screening: Unhealthy Alcohol Use: Screening & Brief Counseling:** Percentage of patients aged 18 years and older who were screened for unhealthy alcohol use using a systematic screening method at least once within the last 24 months AND who received brief counseling if identified as an unhealthy alcohol user.	Physician Consortium for Performance Improvement Foundation (PCPI®)
! (Patient Safety)	0657	464	N/A	MIPS CQMs Specifications	Process	Patient Safety, Efficiency, and Cost Reduction	**Otitis Media with Effusion (OME): Systemic Antimicrobials- Avoidance of Inappropriate Use:** Percentage of patients aged 2 months through 12 years with a diagnosis of OME who were not prescribed systemic antimicrobials.	American Academy of Otolaryngology – Head and Neck Surgery Foundation (AAOHNSF)

Comment: One commenter supported measure Q277: Sleep Apnea: Severity Assessment at Initial Diagnosis and measure Q279: Sleep Apnea: Assessment of Adherence to Positive Airway Pressure Therapy in this measure set.

Response: We thank the commenter for their support.

FINAL ACTION: We are finalizing the *Otolaryngology Specialty Measure Set* as proposed for the 2019 Performance Period and future years with the exception of the newly proposed composite measure: Falls: Screening, Risk-Assessment, and Plan of Care to Prevent Future Falls. We are no longer finalizing the inclusion of the composite falls measure because it must be fully vetted to utilize standardized tools that would appropriately identify the at-risk patient population. In addition, as noted in our responses to public comments in Table C, measures Q154, Q155, and Q318 are not finalized for removal from this measure set as proposed; therefore, they will be retained in this measure set for the 2019 Performance Period and future years.

B.11. Otolaryngology

MEASURES FINALIZED FOR REMOVAL Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.								
NQF #	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**	**Rationale for Removal**
N/A	276	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Assessment of Sleep Symptoms:** Percentage of visits for patients aged 18 years and older with a diagnosis of obstructive sleep apnea that includes documentation of an assessment of sleep symptoms, including presence or absence of snoring and daytime sleepiness.	American Academy of Sleep Medicine	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	278	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**Sleep Apnea: Positive Airway Pressure Therapy Prescribed:** Percentage of patients aged 18 years and older with a diagnosis of moderate or severe obstructive sleep apnea who were prescribed positive airway pressure therapy.	American Academy of Sleep Medicine	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	334	N/A	MIPS CQMs Specifications	Efficiency	Efficiency and Cost Reduction	**Adult Sinusitis: More than One Computerized Tomography (CT) Scan Within 90 Days for Chronic Sinusitis (Overuse):** Percentage of patients aged 18 years and older with a diagnosis of chronic sinusitis who had more than one CT scan of the paranasal sinuses ordered or received within 90 days after the date of diagnosis.	American Academy of Otolaryngology-Otolaryngology- Head and Neck Surgery	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
We did not receive specific comments regarding the proposed removal of measures from this specialty measure set. **FINAL ACTION:** We are finalizing the removal of measures from the *Otolaryngology Specialty Measure Set* as proposed for the 2019 Performance Period and future years. However, as noted in our responses to public comments in Table C, we are not finalizing the following measures proposed for removal from this measure set: Q154, Q155 and Q318.								

B.12. Pathology

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Pathology specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. CMS may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. In addition, as outlined at the end of this table, we removed the following quality measures from the specialty set: Quality IDs: 099, 100, and 251.

B.12. Pathology

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
	1854	249	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Barrett's Esophagus:** Percentage of esophageal biopsy reports that document the presence of Barrett's mucosa that also include a statement about dysplasia.	College of American Pathologists
§	1853	250	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Radical Prostatectomy Pathology Reporting:** Percentage of radical prostatectomy pathology reports that include the pT category, the pN category, the Gleason score and a statement about margin status.	College of American Pathologists
! (Care Coordination)	N/A	395	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Lung Cancer Reporting (Biopsy/ Cytology Specimens):** Pathology reports based on biopsy and/or cytology specimens with a diagnosis of primary non-small cell lung cancer classified into specific histologic type or classified as NSCLC-NOS with an explanation included in the pathology report.	College of American Pathologists
! (Care Coordination)	N/A	396	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Lung Cancer Reporting (Resection Specimens):** Pathology reports based on resection specimens with a diagnosis of primary lung carcinoma that include the pT category, pN category and for non-small cell lung cancer, histologic type.	College of American Pathologists
* ! (Care Coordination)	N/A	397	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Communication and Care Coordination	**Melanoma Reporting:** Pathology reports for primary malignant cutaneous melanoma that include the pT category and a statement on thickness, ulceration and mitotic rate.	College of American Pathologists

Comment: One commenter noted that the following measures were previously designated as outcome measures: Q395 - Lung cancer reporting (biopsy/cytology specimens) Q396 - Lung cancer reporting (resection specimens) and Q397 - Melanoma reporting. The commenter stated that CMS summarily changed the designation of the above measures from outcome to high priority without appropriate notice and explanation. The commenter asked that CMS once again designate these measures as outcomes measures to allow pathologists the opportunity to score bonus points by reporting additional outcomes measures and be able to maximize their score in the Quality category.

Response: We maintain that these measures do not meet the criteria for outcome measures. Outcome measures assesses the results of healthcare that are experienced by patients: clinical events, recovery and health status, experiences in the health system, and efficiency/cost. In these measures, it does not assess an outcome but rather assesses the process of capturing the documentation of appropriate elements within a pathology report. During the 2018 measures finalization review process, we had discussions with the measure steward to confirm the definition of an outcome measure and concluded that these measures should be classified as process measures. As such, measures Q395, Q396 and Q397 were finalized as process measures in the CY 2018 Quality Payment Program final rule (82 FR 53976 through 54146).

FINAL ACTION: We are finalizing the *Pathology Specialty Measure Set* as proposed for the 2019 Performance Period and future years.

B.12. Pathology

MEASURES FINALIZED FOR REMOVAL Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.								
NQF #	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**	**Rationale for Removal**
N/A	099	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Breast Cancer Resection Pathology Reporting: pT Category (Primary Tumor) and pN Category (Regional Lymph Nodes) with Histologic Grade:** Percentage of breast cancer resection pathology reports that include the pT category (primary tumor), the pN category (regional lymph nodes), and the histologic grade.	College of American Pathologists	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	100	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Colorectal Cancer Resection Pathology Reporting: pT Category (Primary Tumor) and pN Category (Regional Lymph Nodes) with Histologic Grade:** Percentage of colon and rectum cancer resection pathology reports that include the pT category (primary tumor), the pN category (regional lymph nodes) and the histologic grade.	College of American Pathologists	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
N/A	251	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Structure	Effective Clinical Care	**Quantitative Immunohistochemical (IHC) Evaluation of Human Epidermal Growth Factor Receptor 2 Testing (HER2) for Breast Cancer Patients:** This is a measure based on whether quantitative evaluation of Human Epidermal Growth Factor Receptor 2 Testing (HER2) by immunohistochemistry (IHC) uses the system recommended in the current ASCO/CAP Guidelines for Human Epidermal Growth Factor Receptor 2 Testing in breast cancer.	College of American Pathologists	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."
We did not receive specific comments regarding the proposed removal of measures from this specialty measure set. **FINAL ACTION:** We are finalizing the removal of measures from the *Pathology Specialty Measure Set* as proposed for the 2019 Performance Period and future years.								

B.13. Pediatrics

In addition to the considerations discussed in the introductory language of Table B in this final rule, the Pediatrics specialty set takes into consideration the following criteria, which includes, but is not limited to: the measure reflects current clinical guidelines and the coding of the measure includes the specialists. CMS may reassess the appropriateness of individual measures, on a case-by-case basis, to ensure appropriate inclusion in the specialty set. In addition, as outlined at the end of this table, we removed the following quality measure from the specialty set: Quality ID: 447.

B.13. Pediatrics

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
! (Appropriate Use)	0069	065	CMS154v7	eCQM Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Appropriate Treatment for Children with Upper Respiratory Infection (URI):** Percentage of children 3 months through 18 years of age who were diagnosed with upper respiratory infection (URI) and were not dispensed an antibiotic prescription on or 3 days after the episode.	National Committee for Quality Assurance
! (Appropriate Use)	N/A	066	CMS146v7	eCQM Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Appropriate Testing for Children with Pharyngitis:** Percentage of children 3-18 years of age who were diagnosed with pharyngitis, ordered an antibiotic and received a group A streptococcus (strep) test for the episode.	National Committee for Quality Assurance
! (Appropriate Use)	0653	091	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Effective Clinical Care	**Acute Otitis External (AOE): Topical Therapy:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were prescribed topical preparations.	American Academy of Otolaryngology -Head and Neck Surgery
! (Appropriate Use)	0654	093	N/A	Medicare Part B Claims Measure Specifications, MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Acute Otitis Externa (AOE): Systemic Antimicrobial Therapy – Avoidance of Inappropriate Use:** Percentage of patients aged 2 years and older with a diagnosis of AOE who were not prescribed systemic antimicrobial therapy.	American Academy of Otolaryngology -Head and Neck Surgery
	0041	110	CMS147v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community /Population Health	**Preventive Care and Screening: Influenza Immunization:** Percentage of patients aged 6 months and older seen for a visit between October 1 and March 31 who received an influenza immunization OR who reported previous receipt of an influenza immunization.	Physician Consortium for Performance Improvement Foundation (PCPI®)
	0418	134	CMS2v8	Medicare Part B Claims Measure Specifications, eCQM Specifications, CMS Web Interface Measure Specifications, MIPS CQMs Specifications	Process	Community /Population Health	**Preventive Care and Screening: Screening for Depression and Follow-Up Plan:** Percentage of patients aged 12 years and older screened for depression on the date of the encounter using an age appropriate standardized depression screening tool AND if positive, a follow-up plan is documented on the date of the positive screen.	Centers for Medicare & Medicaid Services
§	0405	160	CMS52v7	eCQM Specifications	Process	Effective Clinical Care	**HIV/AIDS: Pneumocystis Jiroveci Pneumonia (PCP) Prophylaxis:** Percentage of patients aged 6 weeks and older with a diagnosis of HIV/AIDS who were prescribed Pneumocystis Jiroveci Pneumonia (PCP) prophylaxis.	National Committee for Quality Assurance
§	0409	205	N/A	MIPS CQMs Specifications	Process	Effective Clinical Care	**HIV/AIDS: Sexually Transmitted Disease Screening for Chlamydia, Gonorrhea, and Syphilis:** Percentage of patients aged 13 years and older with a	National Committee for Quality

B.13. Pediatrics

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
							diagnosis of HIV/AIDS for whom chlamydia, gonorrhea and syphilis screenings were performed at least once since the diagnosis of HIV infection.	Assurance
	0024	239	CMS155v7	eCQM Specifications	Process	Community / Population Health	**Weight Assessment and Counseling for Nutrition and Physical Activity for Children and Adolescents:** Percentage of patients 3-17 years of age who had an outpatient visit with a Primary Care Physician (PCP) or Obstetrician/Gynecologist (OB/GYN) and who had evidence of the following during the measurement period. Three rates are reported. • Percentage of patients with height, weight, and body mass index (BMI) percentile documentation. • Percentage of patients with counseling for nutrition. • Percentage of patients with counseling for physical activity.	National Committee for Quality Assurance
	0038	240	CMS117v7	eCQM Specifications	Process	Community /Population Health	**Childhood Immunization Status:** Percentage of children 2 years of age who had four diphtheria, tetanus and acellular pertussis (DTaP); three polio (IPV), one measles, mumps and rubella (MMR); three H influenza type B (HiB); three hepatitis B (Hep B); one chicken pox (VZV); four pneumococcal conjugate (PCV); one hepatitis A (Hep A); two or three rotavirus (RV); and two influenza (flu) vaccines by their second birthday	National Committee for Quality Assurance
! (Opioid)	0004	305	CMS137v7	eCQM Specifications	Process	Effective Clinical Care	**Initiation and Engagement of Alcohol and Other Drug Dependence Treatment:** Percentage of patients 13 years of age and older with a new episode of alcohol and other drug (AOD) dependence who received the following. Two rates are reported. • Percentage of patients who initiated treatment within 14 days of the diagnosis. • Percentage of patients who initiated treatment and who had two or more additional services with an AOD diagnosis within 30 days of the initiation visit.	National Committee for Quality Assurance
	0033	310	CMS153v7	eCQM Specifications	Process	Community / Population Health	**Chlamydia Screening for Women:** Percentage of women 16-24 years of age who were identified as sexually active and who had at least one test for chlamydia during the measurement period.	National Committee for Quality Assurance
	0108	366	CMS136v8	eCQM Specifications	Process	Effective Clinical Care	ADHD: Follow-Up Care for Children Prescribed ADHD Medication (ADD): Percentage of children 6-12 years of age and newly dispensed a medication for attention-deficit/hyperactivity disorder (ADHD) who had appropriate follow-up care. Two rates are reported. a) Percentage of children who had one follow-up visit with a practitioner with prescribing authority during the 30-Day Initiation Phase. b) Percentage of children who remained on ADHD medication for at least 210 days and who, in addition to the visit in the Initiation Phase, had at least two additional follow-up visits with a practitioner within 270 days (9 months) after the Initiation Phase ended.	National Committee for Quality Assurance
	N/A	379	74v7	eCQM Specifications	Process	Effective Clinical Care	**Primary Caries Prevention Intervention as Offered by Primary Care Providers, including Dentists:** Percentage of children, age 0-20 years, who received a fluoride varnish application during the measurement period.	Centers for Medicare & Medicaid Services
! (Patient Safety)	1365	382	CMS177v7	eCQM Specifications	Process	Patient Safety	**Child and Adolescent Major Depressive Disorder (MDD): Suicide Risk Assessment:** Percentage of patient visits for those patients aged 6 through 17 years with a diagnosis of major depressive disorder with an assessment for suicide risk.	Physician Consortium for Performance Improvement

B.13. Pediatrics

MEASURES FINALIZED FOR **INCLUSION**								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
								Foundation (PCPI®)
! (Care Coordination)	0576	391	N/A	MIPS CQMs Specifications	Process	Communication/Care Coordination	**Follow-up After Hospitalization for Mental Illness (FUH):** The percentage of discharges for patients 6 years of age and older who were hospitalized for treatment of selected mental illness diagnoses and who had a follow-up visit with a mental health practitioner. Two rates are submitted: • The percentage of discharges for which the patient received follow-up within 30 days of discharge. • The percentage of discharges for which the patient received follow-up within 7 days of discharge.	National Committee for Quality Assurance
	1407	394	N/A	MIPS CQMs Specifications	Process	Community /Population Health	**Immunizations for Adolescents:** The percentage of adolescents 13 years of age who had the recommended immunizations by their 13th birthday.	National Committee for Quality Assurance
! (Outcome)	N/A	398	N/A	MIPS CQMs Specifications	Outcome	Effective Clinical Care	**Optimal Asthma Control:** Composite measure of the percentage of pediatric and adult patients whose asthma is well-controlled as demonstrated by one of three age appropriate patient reported outcome tools.	Minnesota Community Measurement
	N/A	402	NA	MIPS CQMs Specifications	Process	Community /Population Health	**Tobacco Use and Help with Quitting Among Adolescents:** The percentage of adolescents 12 to 20 years of age with a primary care visit during the measurement year for whom tobacco use status was documented and received help with quitting if identified as a tobacco user.	National Committee for Quality Assurance
§ ! (Efficiency)	N/A	444	N/A	MIPS CQMs Specifications	Process	Efficiency and Cost Reduction	**Medication Management for People with Asthma (MMA):** The percentage of patients 5-64 years of age during the measurement year who were identified as having persistent asthma and were dispensed appropriate medications that they remained on for at least 75 percent of their treatment period.	National Committee for Quality Assurance
! (Patient Safety)	0657	464	N/A	MIPS CQMs Specifications	Process	Patient Safety, Efficiency, and Cost Reduction	**Otitis Media with Effusion (OME): Systemic Antimicrobials- Avoidance of Inappropriate Use:** Percentage of patients aged 2 months through 12 years with a diagnosis of OME who were not prescribed systemic antimicrobials.	American Academy of Otolaryngology – Head and Neck Surgery Foundation (AAOHNSF)
	N/A	467	N/A	MIPS CQMs Specifications	Process	Community /Population Health	**Developmental Screening in the First Three Years of Life:** The percentage of children screened for risk of developmental, behavioral and social delays using a standardized screening tool in the first 3 years of life. This is a measure of screening in the first 3 years of life that includes 3, age-specific indicators assessing whether children are screened by 12 months of age, by 24 months of age and by 36 months of age.	Oregon Health & Science University

Comment: One commenter appreciated CMS' recognition of pediatric-specific measures in the Pediatric Specialty Set, acknowledging that children have unique needs and require different services than adults. The commenter noted that CMS plays an important role in aligning measures across programs and payers. While many of the MIPS measures have been used for health plan accreditation and other system-level measurement, there is little information on how the validity of these measures were examined within the context of the Quality Payment Program or the application to those who care for the very few Medicare-enrolled children. Thus, the commenter recommended that any process CMS uses to examine the application of the Quality Payment Program model to the Medicaid program and commercial payers specifically assess the appropriateness, usefulness and validity of pediatric measures in its application.

Response: We agree that it is important to align measures across programs. Many of these measures have been included in legacy quality programs that evaluated the validity of the measure to be included in quality programs including the Quality Payment Program. We have expanded to include all payer patient data for the quality measures for many of the data collection types, which allows evaluation of children that are not only Medicare-enrolled but those that are covered under other health plans. As MIPS evolves, we will assess appropriateness, usefulness and validity of pediatric measures in relation to the Medicaid program and commercial payers.

B.13. Pediatrics

MEASURES FINALIZED FOR INCLUSION								
Indicator	**NQF #**	**Quality #**	**CMS eCQM ID**	**Collection Type**	**Measure Type**	**National Quality Strategy Domain**	**Measure Title and Description**	**Measure Steward**
FINAL ACTION: We are finalizing the *Pediatrics Specialty Measure Set* as proposed for the 2019 Performance Period and future years.								

B.13. Pediatrics (continued)

MEASURES FINALIZED FOR REMOVAL

Note: In this final rule, we removed the following measure(s) below from this specific specialty measure set based upon review of updates made to existing quality measure specifications, the addition of new measures for inclusion in MIPS, and the feedback provided by specialty societies.

NQF #	Quality #	CMS eCQM ID	Collection Type	Measure Type	National Quality Strategy Domain	Measure Title and Description	Measure Steward	Rationale for Removal
N/A	447	N/A	MIPS CQMs Specifications	Process	Community /Population Health	**Chlamydia Screening and Follow Up:** The percentage of female adolescents 16 years of age who had a chlamydia screening test with proper follow-up during the measurement period	National Committee for Quality Assurance	This measure is being removed from the 2019 program based on the detailed rationale described below for this measure in "Table C: Quality Measures Finalized for Removal in the 2021 MIPS Payment Year and Future Years."

We did not receive specific comments regarding the proposed removal of measures from this specialty measure set.

FINAL ACTION: We are finalizing the removal of measures from the *Pediatrics Specialty Measure Set* as proposed for the 2019 Performance Period and future years.

Dated: December 20, 2018.

Ann C. Agnew,

Executive Secretary to the Department,
Department of Health and Human Services.

[FR Doc. 2018–28354 Filed 1–30–19; 8:45 am]

BILLING CODE 4120–01–C

Proposed Rules

Federal Register
Vol. 84, No. 21
Thursday, January 31, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Doc. No. AMS–SC–18–0067; SC18–948–2 PR]

Irish Potatoes Grown in Colorado; Handling Regulation for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a recommendation to revise the size requirements currently prescribed under the federal marketing order for Irish potatoes grown in Colorado. This action would revise the minimum size requirement for U.S. No. 2 or better grade round potatoes to align with the current size requirements for all other types of U.S. No. 2 or better grade potatoes. In addition, this rule would revise the size requirements for smaller size profile U.S. Commercial grade or better potatoes.

DATES: Comments must be received by April 1, 2019.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov*. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary D. 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, proposes amendments to the regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed 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 Colorado Potato Administrative Committee, Area 2 (Committee) locally administers the Order and is comprised of potato producers and handlers operating within the area of production.

This proposed rule is also issued under section 8e of the Act (7 U.S.C. 608e–1), which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this proposed 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 proposed 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), 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.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act (7 U.S.C. 608e–1).

This proposed rule would revise the size requirements currently prescribed for potatoes regulated under the Order. This proposal would update the current minimum size requirement for U.S. No. 2 or better grade round potatoes from 2 inches minimum diameter to 2 inches minimum diameter or 4 ounces minimum weight. The change in the handling regulation would be effectuated by merging the two current size requirements for U.S. No. 2 or better grade potatoes (one for round varieties and one for all other varieties) into one minimum size requirement that covers all U.S. No. 2 or better grade potatoes.

In addition, this rule would revise the size requirements for U.S. Commercial grade or better potatoes to allow

handling of ¾-inch minimum to 1⅞-inch maximum diameter potatoes. The change would be a change from the ¾-inch minimum to 1⅝-inch maximum diameter size range (''Creamer'' size as defined in the U.S. Standards for Grades of Potatoes (7 CFR 51.1545)(Standards)) currently in effect. After the change, the handling regulations would no longer refer to the ''Creamer'' size in the size requirements because the specified size range would no longer conform to the requirements in the Standards. The changes to the handling regulations were unanimously recommended by the Committee at a meeting held on July 12, 2018.

Section 948.22 authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the Order's production area. Section 948.21 authorizes the modification, suspension, or termination of regulations issued pursuant to § 948.22.

Under the Order, the State of Colorado is divided into three areas of regulation for marketing order purposes. These include: Area 1, commonly known as the Western Slope; Area 2, commonly known as San Luis Valley; and, Area 3, which consists of the remaining producing areas within the State of Colorado not included in the definitions of Area 1 or Area 2. Currently, the Order only regulates the handling of potatoes produced in Area 2 and Area 3. Regulation for Area 1 has been suspended.

The grade, size, and maturity requirements specific to the handling of potatoes grown in Area 2 are contained in § 948.386 of the Order. The Order's current handling regulation requires round varieties of potatoes to be U.S. No. 2 or better grade, and 2 inches minimum diameter. All other non-round varieties of potatoes are required to be U.S. No. 2 or better grade, and either 2 inches minimum diameter or 4 ounces minimum weight. Additionally, potatoes that are U.S. Commercial grade or better may be Size B (1½-inch minimum to 2¼-inch maximum diameter) or Creamer size (¾-inch minimum to 1⅝-inch maximum diameter).

At the July 12, 2018, Committee meeting, industry participants, including the Colorado Department of Agriculture Inspection Division, indicated to the Committee that standardizing the size requirement for all varieties of U.S. No. 2 or better grade potatoes to 2 inches minimum diameter or 4 ounces minimum weight would simplify the handling of potatoes from the production area. The industry believes that merging the two current size requirements for U.S. No. 2 or better grade potatoes into one minimum size requirement covering all varieties of U.S. No. 2 or better potatoes would ease the implementation of the handling regulations for handlers and for the fresh produce inspectors. Further, industry stakeholders stated that there is a market for U.S. Commercial grade or better potatoes of a slightly larger size profile than currently allowed under the Creamer size, and increasing the maximum size in the profile to 1⅞-inch maximum diameter would facilitate sales.

Revising the size requirements for round U.S. No. 2 or better grade potatoes and U.S. Commercial grade or better potatoes would allow area handlers to better compete with other domestic potato producing regions. The changes would effectively increase the quantity of potatoes that can enter the fresh market from the production area and would allow handlers to supply potato buyers with the grade and size profiles that they prefer. This change is expected to benefit producers, handlers, and consumers of potatoes.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 60 handlers of Colorado Area No. 2 potatoes subject to regulation under the Order and approximately 160 producers in the regulated production area. In addition, there are approximately 255 importers of all types of potatoes, many of which import long types, who are subject to regulation under the Act. Small agricultural service firms, which include potato handlers and importers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

During the 2016–2017 marketing year, the most recent full marketing year for which statistics are available, approximately 19,828,000 hundredweight of Colorado Area No. 2 potatoes were inspected under the Order and sold into the fresh market. Based on information reported by USDA's Market News Service, the average f.o.b. shipping point price for the 2016–2017 Colorado potato crop was $11.79 per hundredweight. Multiplying $11.79 by the shipment quantity of 19,828,000 hundredweight yields an annual crop revenue estimate of $233,772,120. The average annual fresh potato revenue for each of the 60 handlers is therefore calculated to be $3,896,202 ($233,772,120 divided by 60), which is less than the SBA threshold of $7,500,000. Consequently, on average most of the Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for the 2016 Colorado fall potato crop was $9.60 per hundredweight. Multiplying $9.60 by the shipment quantity of 19,828,000 hundredweight yields an annual crop revenue estimate of $190,348,800. The average annual fresh potato revenue for each of the 160 Colorado Area No. 2 potato producers is therefore calculated to be approximately $1,189,680 ($190,348,800 divided by 160), which is greater than the SBA threshold of $750,000. Therefore, on average, most of the Area No. 2 Colorado potato producers may not be classified as small entities.

Further, based on information from USDA's Foreign Agricultural Service (FAS), potato importers imported 17,254,160 hundredweight of potatoes into the U.S. in 2017. FAS also reported the total value of potato imports for 2017 to be $235,685,000. The average 2017 annual revenue of the estimated 255 potato importers is therefore calculated to be $924,255 ($235,685,000 divided by 255), which is significantly less than the SBA threshold of $7,500,000. Consequently, on average, most of the entities importing potatoes into the U.S. may be classified as small entities.

This proposal would revise the minimum size requirement for round U.S. No. 2 grade or better potatoes from the current 2 inches minimum diameter to 2 inches minimum diameter or 4 ounces minimum weight. In addition, this proposed rule would revise the size requirements for U.S. Commercial grade or better potatoes to allow handling of ¾-inch minimum to 1⅞-inch maximum diameter size range potatoes. Revising

the size requirements would allow Colorado Area 2 handlers to market more of their potatoes and enable them to better compete with the other domestic potato producing regions. All other requirements in the Order's handling regulations would remain unchanged. Authority for this action is contained in §§ 948.20, 948.21, and 948.22 of the Order.

This proposed rule is expected to benefit the producers, handlers, and consumers of Colorado Area 2 potatoes by allowing a greater quantity of potatoes from the production area to enter the fresh market. The anticipated increase in volume is expected to translate into greater returns for handlers and producers, and more purchasing options for consumers.

After discussing possible alternatives to this proposed rule, the Committee determined that a change in the size requirements for U.S. No. 2 or better grade round potatoes, and U.S. Commercial grade or better potatoes, would meet the industry's current needs while maintaining the integrity of the Order's quality objectives. During its deliberations, the Committee considered making no changes to the handling regulation, as well as further changing the size requirements for all potatoes. The Committee believes that a revision to the Order's size requirements is necessary to allow handlers to pursue all available markets, but further revising the size requirements for all other types and varieties of potatoes could erode the quality reputation of the area's production. Therefore, the Committee found that there were no other viable alternatives to the proposal as recommended.

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

This proposed rule would revise the size requirements established under the Order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers and importers. 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.

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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

The Committee's July 18, 2018, meeting was widely publicized throughout the Colorado Area 2 potato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the meeting was public, and all entities, both large and small, were able to express their views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

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.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

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 proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

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

Authority: 7 U.S.C. 601–674.

■ 2. In § 948.386, remove paragraph (a)(1), redesignate paragraphs (a)(2) through (a)(5) as paragraphs (a)(1) through (a)(4), and revise new paragraphs (a)(1) and (a)(3) to read as follows:

§ 948.386 Handling regulation.

* * * * *

(a) * * *

(1) *All varieties.* U.S. No. 2 or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

* * * * *

(3) *¾-inch minimum to 1⅞-inch maximum diameter.* U.S. Commercial grade or better.

* * * * *

Dated: January 26, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–00553 Filed 1–30–19; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

[NRC–2008–0421]

RIN 3150–AI40

Ground Water Protection at Uranium In Situ Recovery Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting views from interested stakeholders on whether the NRC should resume rulemaking to amend its regulations governing the domestic licensing of source material by codifying general requirements to address ground water protection at uranium *in situ* recovery (ISR) facilities. The NRC currently regulates ISR operations through application of regulations that primarily focus on conventional uranium mills and site-specific license conditions. The NRC initiated rulemaking in 2006 to develop requirements to provide regulatory consistency and improve the efficiency of the ISR licensing process but placed this rulemaking on hold in 2010. Information provided to the NRC during the public comment period will be factored into the decision as to whether the NRC will continue this rulemaking.

DATES: Submit comments by March 4, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. The NRC will not prepare written responses to each individual comment but will consider each in determining the path forward for this rulemaking.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search

for Docket ID NRC–2008–0421. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: Andrew G. Carrera, telephone: 301–415–1078; email: *Andrew.Carrera@nrc.gov;* or Gary Comfort, telephone: 301–415–8106; email: *Gary.Comfort@nrc.gov.* Both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2008–0421 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0421.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0421 in your comment submission.

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

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

II. Background

In situ recovery is a method used to extract uranium from underground ore bodies without physical excavation. It is also known as ''solution mining'' or *in situ* leaching. In the ISR process, a solution called lixiviant is pumped into the subsurface. In the United States, lixiviant typically contains water mixed with oxygen and/or hydrogen peroxide, as well as sodium carbonate or carbon dioxide. The lixiviant dissolves the uranium, located in the underground ore body, into the solution. The solution is then pumped to the surface, where it undergoes additional processing and concentration to produce a solid form of uranium called ''yellowcake.'' The yellowcake is ultimately used in the manufacture of fuel for nuclear reactors.

The licensed area of a typical uranium ISR facility covers several square miles and may include several discrete or contiguous wellfields, some of which may be operating while others may be in restoration or decommissioning. Each ISR wellfield is composed of a series of injection and extraction wells drilled into a uranium ore body that has been identified in a subsurface geologic formation within the wellfield. The aquifer within the formation where the ore body is located is commonly referred to as the ''ore zone aquifer''. Currently, there are six ISR facilities operating in the United States.

Uranium ISR was introduced in the late 1970s as an alternative to conventional uranium recovery, which involves extracting uranium ore from the earth, typically through deep underground shafts or shallow open pits. Ore extracted by conventional uranium recovery is transported to a mill, where it is crushed and undergoes a chemical process to remove the uranium. The uranium is then concentrated to produce yellowcake. The sandy waste resulting from crushing the uranium ore is known as ''uranium mill tailings'' or ''tailings.'' Tailings contain heavy metals and radioactive constituents, such as radium. Alternatively, uranium may be recovered from the ore using a heap leach process. In the heap leach process, the ore is placed on an engineered barrier and sprayed with acid. The uranium dissolves into solution and is collected at the engineered barrier. The solution undergoes additional chemical processing to produce yellowcake. Currently, there is one operating conventional uranium mill and there are no operating heap leach facilities in the United States.

The NRC licenses ISR facilities under part 40 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Source Material,'' because these facilities possess and use source material.[1] The possession and use of source material are activities that require a license from the NRC under the Atomic Energy Act of 1954, as amended (AEA).[2] The waste (tailings) generated as a result of the ISR process falls within a category of byproduct material defined in section 11e.(2) of the AEA. Specifically, in section 11e.(2), byproduct material is defined as ''the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed

[1] The term ''source material'' is defined as ''(1) Uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) Uranium, (ii) thorium or (iii) any combination thereof.'' 10 CFR 40.4, ''Definitions''.

[2] AEA, § 62, 42 U.S.C. 2092 (''Unless authorized by a general or specific license issued by the [Nuclear Regulatory] Commission . . . no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature . . .'').

primarily for its source material content.'' [3]

Under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) (Pub. L. 95–604), the NRC is responsible for regulating section 11e.(2) byproduct material at sites where such material is generated. Congress enacted UMTRCA to provide public health, safety, and environmental protection from the radiological and non-radiological hazards associated with the processing, possession, transfer, and disposal of AEA section 11e.(2) byproduct material. The UMTRCA amended the AEA by adding to it the section 11e.(2) definition of byproduct material and sections 84 and 275.

The AEA, as amended by UMTRCA, established a dual regulatory scheme over the domestic uranium milling industry between the U.S. Environmental Protection Agency (EPA) and the NRC. Under section 275b. of the AEA, the EPA is authorized to issue standards of general applicability for the protection of health, safety, and the environment from radiological and non-radiological hazards associated with the processing of section 11(e)(2) byproduct material.[4] Under AEA section 84,[5] the NRC or the appropriate Agreement State [6] is responsible for implementing the EPA's generally applicable standards. In this regard, the NRC or the applicable Agreement State entity is the regulatory or licensing agency for all uranium recovery facilities, including ISR facilities, and is responsible for inspecting the facility and enforcing the terms and conditions of the operating license.[7]

The EPA first issued generally applicable standards on October 7, 1983 (48 FR 45926) and updated these standards on November 15, 1993 (58 FR 60340). The EPA codified these standards into its regulations at 40 CFR part 192, ''Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings,'' subpart D, ''Standards for Management of Uranium Byproduct Materials Pursuant to Section 84 of the Atomic Energy Act of 1954, as amended.'' The NRC issued its implementing regulations on October 16, 1985 (50 FR 41852) and further amended them in subsequent rulemakings.[8] The NRC codified its implementing regulations at 10 CFR part 40, ''Domestic Licensing of Source Material,'' appendix A, ''Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for their Source Material Content.''

In the 1990s, ISR operations became the predominant means of extracting uranium in the United States. In COMJSM–06–0001, ''Regulation of Groundwater Protection at *In Situ* Leach Uranium Extraction Facilities,'' dated January 17, 2006 (ADAMS Accession No. ML060830041), NRC Commissioner Merrifield stated:

> [W]hile the staff has done its best to regulate [ISR] licensees through the generally applicable requirements in Part 40 and imposition of license conditions, our failure to promulgate specific regulations for [ISRs] has resulted in an inconsistent and ineffective regulatory program. We have been attempting to force a square peg into a round hole for years, and I believe we should finally remedy this situation through notice and comment rulemaking. In developing a proposed rule, the staff should formulate a regulatory framework that is tailored specifically to this unique group of licensees.

In the Commission's subsequent staff requirements memorandum, dated March 23, 2006 (ADAMS Accession No. ML060820503), the Commission approved the initiation of a rulemaking for the purpose of providing clarity, predictability, and consistency to the licensing and regulation of ISR facilities.

In 2010, the EPA informed the NRC that it would undertake its own rulemaking effort to issue generally applicable standards for ISRs. The NRC then deferred its ongoing ISR rulemaking effort, prior to the publication of a proposed rule, in anticipation of the need to conform its implementing regulations to the generally applicable standards to be issued by the EPA. The EPA issued its proposed rule on January 26, 2015 (80 FR 4156). Subsequently, the EPA decided to re-propose the rule and seek additional public comment. The EPA issued the re-proposed rule, superseding the January 2015 proposed rule, on January 19, 2017 (82 FR 7400). The NRC had jurisdictional and technical concerns with both the January 2015 and January 2017 proposed rules and submitted comments addressing these concerns on July 18, 2017 (ADAMS Accession No. ML17173A638).

On October 30, 2018 (83 FR 54543), the EPA withdrew its proposed rule. The EPA concluded, based on comments from stakeholders, that it had serious questions concerning whether it has the legal authority under UMTRCA to issue the regulations as provided in the 2017 proposed rule. The EPA also concluded that the existing regulatory framework was sufficient to ensure the protection of public health and the environment at existing ISRs. Finally, the EPA stated that, given current and foreseeable market conditions, the uranium recovery industry was not likely to have the robust growth that was anticipated in the 2000s. Given the EPA's withdrawal of its proposed rule, the NRC must now decide whether to proceed with its 2006 ISR-specific rulemaking, held in abeyance since 2010.

III. Discussion

The current version of appendix A to 10 CFR part 40 provides a generic set of regulations for the operation of conventional uranium mills. With respect to the NRC's licensing of ISR facilities, the current regulations in appendix A, coupled with the conditions of ISR site-specific licenses and the NRC's ongoing oversight of the licensees' operations, provide adequate protection to the public health and safety and the environment. The NRC's purpose in promulgating a generic set of regulations for the operation of ISRs is to standardize existing NRC ISR licensing and oversight practices and to ensure consistency in the NRC staff's evaluation and approval of ISR license applications. In addition, the promulgation of generic regulations for ISR facilities would provide a national regulatory framework from which Agreement States can, in turn, promulgate their own compatible regulatory standards. If the NRC continues with this rulemaking, the amendments to appendix A would be

[3] AEA, § 11e.(2); 42 U.S.C. 2014(e)(2). In 10 CFR 40.4, the NRC further defines section 11e.(2) byproduct material as ''the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute 'byproduct material' within this definition.''

[4] 42 U.S.C. 2022(b).

[5] 42 U.S.C. 2114.

[6] Section 274 of the AEA authorizes the NRC to relinquish or discontinue its regulatory authority over certain categories of radioactive material to a State following a duly executed agreement between the NRC and the governor of the State. 42 U.S.C. 2021. After the agreement is entered into, the State, now an ''Agreement State,'' must promulgate or adopt regulations compatible to those NRC regulations that govern the subject matter areas relinquished to the Agreement State.

[7] AEA § 275b.(2); 42 U.S.C. 2022(b)(2) (''no permit issued by the [EPA] Administrator is required under this Act or the [Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*] for the processing, possession, transfer, or disposal of [section 11e.(2)] byproduct material'').

[8] Substantive amendments include 52 FR 43553 (November 13, 1987) (NRC conforming amendments not covered in the October 16, 1985 rule); 53 FR 19240 (May 27, 1988) (record retention periods); 59 FR 28220 (June 1, 1994) (emplacement of final radon barrier on conventional mill tailings piles); and 76 FR 35512 (June 17, 2011) (financial assurance requirements associated with decommissioning planning).

based upon many of the license conditions that are contained in current NRC-issued site-specific ISR licenses and would be further informed by the approved methodologies and best practices set forth in those NRC guidance documents that are applicable to ISR activities.

ISR operations are substantially different from those of conventional uranium milling, including the measures taken to ensure the protection of groundwater. The requirements for groundwater protection at conventional uranium mills are mainly concerned with the prevention, detection, and correction of contamination in shallow aquifers from seepage and leaks associated with the long-term management of mill tailings impoundments. At ISR facilities, however, the main concern is contamination of the surrounding groundwater by the short-term degradation of the water quality in the ore zone aquifer during ISR operations. Specifically, the groundwater chemistry in the ore zone aquifer is altered by the injection of lixiviant, which along with dissolving the uranium located in the underground ore body, also mobilizes hazardous constituents such as metals and radionuclides like radium. If the lixiviant is not controlled within the ore zone aquifer, then these hazardous constituents may migrate outside the ISR wellfield and potentially contaminate surrounding groundwater and connected surface water. Therefore, the NRC and the Agreement States have included license conditions in ISR licenses requiring ISR licensees to satisfy certain technical criteria that will protect surrounding groundwater during ISR operations and restore the water quality in ore zone aquifers after ISR operations. Unlike conventional mill tailings impoundments that require long-term management for groundwater protection, ISR wellfields may be decommissioned and the ISR license terminated once groundwater restoration requirements are met.

The NRC initiated the ISR rulemaking in 2006 to provide regulatory predictability and consistency to the licensing process for ISRs. By establishing a generic set of requirements for ISR activities, the rule would improve regulatory efficiency and make the NRC's review process for ISR license applications and amendments more consistent and transparent to the public and industry.

Most ISR facilities currently in operation are licensed by Agreement States. One of the requirements of the NRC's Agreement State program is that the regulations of an Agreement State must be ''compatible'' with the NRC's regulatory program.[9] Therefore, in accordance with the NRC's Agreement State program, the promulgation of an NRC rulemaking specific to ISR facilities would require Agreement States to conform their regulations, to the extent appropriate, to the new or amended NRC regulations. The benefit of having Agreement States conform their regulations would be the establishment of a relatively uniform [10] set of both groundwater protection and radiation health and safety requirements for ISR facilities nationwide.

In light of the EPA's withdrawal of its January 2017 proposed rule, the NRC is now conducting an assessment of the requirements in 10 CFR part 40 appendix A pertaining to the licensing of ISRs and is requesting input from members of the public about the topics discussed in the ''Request for Comments'' section. The information received from this request will be factored into the decision whether to continue this rulemaking.

IV. Request for Comments

The NRC welcomes general comments and seeks comments in response to the numbered items in this section. In responding to these numbered items, please provide your rationale or justification for your position. In addition, please provide a discussion of any factors that you considered in providing your opinion and any recommendations to assist the NRC in improving its regulatory process. The factors that the NRC must consider in determining whether to proceed with this rulemaking include technical feasibility, a cost-benefit analysis, and consistency and clarity of applicable regulations for the adequate protection of the health and safety and the environment.

1. If the NRC were to proceed with its ISR rulemaking that has been held in abeyance since 2010, the NRC would amend its current uranium milling regulations in appendix A to 10 CFR part 40 to add ISR-specific requirements. Should the NRC proceed with this rulemaking?

2. Please identify any issues that should be addressed to protect groundwater at ISR facilities, in either this rulemaking or through the development of guidance documents.

3. Please identify any issues that should be addressed to enhance public or occupational safety at ISR facilities, in either this rulemaking or through the development of guidance documents.

4. Please identify any issues that should be addressed to establish a relatively uniform set of requirements for ISR facilities nationwide (both in Agreement States and in non-Agreement States).

VI. Availability of Documents

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

Document	ADAMS accession No./ **Federal Register** citation
COMJSM–06–0001, ''Regulation of Groundwater Protection at In Situ Leach Uranium Extraction Facilities,'' dated January 17, 2006.	ML060830041
Staff Requirements Memorandum-COMJSM–06–0001, ''Regulation of Groundwater Protection at In Situ Leach Uranium Extraction Facilities,'' dated March 23, 2006.	ML060820503

[9] Agreement State Program Policy Statement, 82 FR 48535–39 (October 18, 2017); *see also id.* at 48536–37 (''The NRC and the Agreement States have the responsibility to ensure that the radiation control programs are compatible. Such radiation control programs should be based on a common regulatory philosophy including the common use of definitions and standards. The programs should be effective and cooperatively implemented by the NRC and the Agreement States and also should provide uniformity and achieve common strategic outcomes in program areas of national significance.'').

[10] Based upon the compatibility category (*see id.* at 48538–39) that the NRC assigns to each new or amended regulation, Agreement States should have a substantial degree of flexibility in promulgating their conforming regulations. *Id.* at 48537 (''With the exception of those compatibility areas where programs should be essentially identical, Agreement State radiation control programs have flexibility in program implementation and administration to accommodate individual State preferences, State legislative direction, and local needs and conditions.'').

Document	ADAMS accession No./ **Federal Register** citation
''40 CFR Part 192, Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings; Proposed Rule,'' January 19, 2017.	82 FR 7400
''40 CFR Part 192, Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings; Proposed Rule; Withdrawal,'' October 30, 2018.	83 FR 54543
NUREG–1569, ''Standard Review Plan for In Situ Leach Uranium Extraction License Applications: Final Report,'' June 2003	ML032310005
''NRC Staff's Comments on EPA Proposed Rulemaking for 40 CFR Part 192 Rule, 82 FR 7400,'' July 17, 2017	ML17173A638
''40 CFR Part 192, Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Final Rule,'' October 7, 1983.	48 FR 45926
''40 CFR Part 192, Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Final Rule,'' November 15, 1993.	58 FR 60340
''Uranium Mill Tailings Regulations; Conforming NRC Requirements to EPA Standards; Final Rule,'' October 16, 1985	50 FR 41852
''40 CFR Part 192, Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings; Proposed Rule,'' January 26, 2015.	80 FR 4156

Throughout the development of this assessment, the NRC may post related documents, including public comments, on the Federal rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2008–0421. The Federal rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2008–0421); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

Dated at Rockville, Maryland, this 28th day of January 2019.

For the Nuclear Regulatory Commission.

Theresa V. Clark,

Deputy Director, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–00435 Filed 1–30–19; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2017–0032; Docket No. PRM–170–7; NRC–2018–0172]

RIN 3150–AJ99

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2019

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90), which requires the NRC to recover approximately 90 percent of its annual budget through fees less certain amounts excluded from this fee-recovery requirement. President Trump signed the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019 on September 21, 2018. That Act appropriated approximately $911.0 million to the NRC, which is a decrease of approximately $11.0 million from FY 2018. Based on that total budget authority, the NRC is proposing to collect $781.9 million in fees in FY 2019.

DATES: Submit comments by March 4, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date. Because OBRA–90 requires the NRC to collect the FY 2019 fees by September 30, 2019, the NRC will not grant any requests for an extension of the comment period.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0032. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: Michele Kaplan, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5256; email: *Michele.Kaplan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0032 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0032.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are also provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0032 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission publicly available in this docket.

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

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

II. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) OBRA–90 (42 U.S.C. 2214). The IOAA generally authorizes and encourages Federal regulatory agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. The OBRA–90 requires the NRC to recover approximately 90 percent of its budget authority for the fiscal year through fees; in FY 2019, amounts appropriated for the development of regulatory infrastructure for advanced reactor technologies, international activities, Waste Incidental to Reprocessing, generic homeland security activities, and Inspector General services for the Defense Nuclear Facilities Safety Board are excluded from this fee-recovery requirement. The OBRA–90 first requires the NRC to use its IOAA authority to collect service fees for NRC work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, and special projects). The regulations at part 170 of title 10 of the *Code of Federal Regulations* (10 CFR) authorize these fees. But, because the NRC's fee recovery under the IOAA (10 CFR part 170) does not equal 90 percent of the NRC's budget authority for the fiscal year, the NRC also assesses ''annual fees'' under 10 CFR part 171 to recover the remaining amount necessary to meet OBRA–90's fee-recovery requirement. These annual fees recover costs that are not otherwise collected through 10 CFR part 170.

III. Specific Request for Comment: Petition for Rulemaking (PRM–170–7; NRC–2018–0172)

The NRC welcomes general comments on this proposed rule; in addition, the NRC is requesting public comment on the issues raised in a petition for rulemaking (ADAMS Accession No. ML18214A757), dated July 3, 2018, which was submitted to the NRC by Christopher S. Pugsley, Esq. (the petitioner), on behalf of Water Remediation Technology (WRT), LLC. The petitioner requests that the NRC amend its regulations regarding full cost recovery of licensee fees. The petition was docketed by the NRC on August 2, 2018, and was assigned Docket No. PRM–170–7. The NRC published a notice of docketing in the **Federal Register** on November 2, 2018 (83 FR 55113), but did not request public comment at that time. Please include Docket ID NRC–2018–0172 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission publicly available in the petition's docket. You may submit comments on this petition using the methods listed in the **ADDRESSES** section of this document.

The petitioner requests that the NRC amend its regulations to re-categorize WRT as a licensee that does not require full-cost recovery for fees billed to it during the life of its license under 10 CFR part 170. The petitioner also requests that the NRC address consistency issues between 10 CFR parts 170 and 171 for small entities, and consider amending language under § 170.11 to extend the time within which a licensee may appeal the assessment of fees and apply for a fee exemption. The petitioner has asked the NRC to consider these rule changes within the context of its rulemaking to amend 10 CFR parts 170 and 171 to collect FY 2019 fees. See the FY 2019 Policy Change section of this document for additional information.

IV. Discussion

FY 2019 Fee Collection—Overview

The NRC is issuing this FY 2019 proposed fee rule based on the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019 (Pub. L. 155–244) (enacted budget). The total enacted budget for the NRC in FY 2019 is approximately $911.0 million, a decrease of approximately $11.0 million from FY 2018. As explained previously, certain portions of the NRC's total budget are excluded from OBRA–90's fee-recovery requirement. Based on the FY 2019 enacted budget, these exclusions total to $43.4 million, consisting of $16.1 million for international activities, $10.3 million for advanced reactor technologies regulatory infrastructure, $1.3 million for Waste Incidental to Reprocessing activities, $1.1 million for Inspector General services for the Defense Nuclear Facilities Safety Board, and $14.6 million for generic homeland security activities. Additionally, OBRA–90 requires the NRC to recover only approximately 90 percent of the remaining budget authority for the fiscal year—10 percent of the remaining budget authority is not recovered through fees. The NRC refers to the activities included in this 10-percent as ''fee-relief'' activities. After accounting for the fee-recovery exclusions, the fee-relief activities, and net billing adjustments (*i.e.,* the sum of unpaid current year invoices (estimated) minus payments for prior year invoices), the NRC must bill approximately $781.9 million in fees in FY 2019. Of this amount, the NRC estimates that $246.7 million will be recovered through 10 CFR part 170 service fees; that leaves

approximately $535.2 million to be recovered through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2019 proposed fee rule using the enacted budget, and taking into account excluded activities, fee-relief activities, and net billing adjustments. For all information presented in the following tables, individual values may not sum to totals due to rounding. Please see the work papers (ADAMS Accession No. ML18361A780) for actual amounts.

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS [1]

[Dollars in millions]

	FY 2018 final rule	FY 2019 proposed rule	Percentage change
Total Budget Authority	$922.0	$911.0	−1.2
Less Excluded Fee Items	−43.8	−43.4	−0.9
Balance	878.2	867.6	−1.2
Fee Recovery Percent	90	90	0.0
Total Amount to be Recovered:	790.4	780.8	−1.2
Adjustment USAID Rescission [2]	−0.1	0.0	100.0
Total Amount to be Recovered Post USAID:	790.3	780.8	−1.2
10 CFR Part 171 Billing Adjustments:			
Unpaid Current Year Invoices (estimated)	6.5	3.9	−40.0
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−7.5	−2.8	−62.7
Subtotal	−1.0	1.1	210.0
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	789.3	781.9	−0.9
Less Estimated 10 CFR Part 170 Fees	−280.8	−246.7	−12.1
10 CFR Part 171 Fee Collections Required	508.5	535.2	5.3

FY 2019 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees for specific services provided by the NRC under 10 CFR part 170. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate would be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support (corporate support and the Inspector General), and then subtracting certain offsetting receipts, and then dividing this total by the mission-direct full-time equivalents (FTE) converted to hours. The mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours. The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \text{Professional Hourly Rate} \quad \frac{\$759.8 \text{ million}}{1{,}810 \times 1{,}510} = \$278$$

For FY 2019, the NRC is proposing to increase the professional hourly rate from $275 to $278. The 1.1 percent increase in the FY 2019 professional hourly rate is due primarily to the decline in the number of mission-direct FTE compared to FY 2018, offset by the slight decrease in total budgeted resources. The number of mission-direct FTE declined by 41, primarily due to the standardization and centralization of mission support functions within the programmatic offices, and the transition of Wyoming to status as an Agreement State. The FY 2019 estimate for annual mission-direct FTE productive hours is 1,510 hours, which is unchanged from FY 2018. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate therefore excludes hours charged to annual leave, sick leave, holidays, training, and general administration tasks. Table II shows the professional hourly rate calculation methodology. The FY 2018 amounts are provided for comparison purposes.

[1] For each table, numbers may not add due to rounding.

[2] The adjustment to the NRC's FY 2018 fee recovery amount associated with the USAID rescission is shown in Table 1. Because the USAID rescission amount was approximately $0.1 million in FY 2018, the proportion of the USAID rescission applicable to each fee class is not shown in the accompanying tables for each fee class. In FY 2019, USAID was not included as part of the appropriation.

TABLE II—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2018 final rule	FY 2019 proposed rule	Percentage change
Mission-Direct Program Salaries & Benefits	$325.7	$334.7	2.8
Mission-Indirect Program Support	135.0	120.6	−10.7
Agency Support (Corporate Support and the Inspector General)	308.1	304.5	−1.2
Subtotal	768.8	759.8	−1.2
Less Offsetting Receipts [3]	0.0	0.0	0.0
Total Budgeted Resources Included in Professional Hourly Rate	768.8	759.8	−1.2
Mission-Direct FTE (Whole numbers)	1,851	1,810	−2.2
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,510	1,510	0.0
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours) (Whole numbers)	2,795,010	2,733,100	−2.2
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	275	278	1.1

FY 2019 Fee Collection—Flat Application Fee Changes

The NRC proposes to amend the flat application fees that it charges to applicants for materials licenses and other regulatory services, and holders of materials licenses in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of $278. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate for FY 2019. The NRC analyzes the actual hours spent performing licensing actions and then estimates the average professional staff hours that are needed to process licensing actions as part of its biennial review of fees, which is required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2019 and will perform this review again in FY 2021. The biennial review adjustments and the higher professional hourly rate of $278 are the primary reasons for the increase in application fees. Please see the work papers for more detail.

The NRC rounds these flat fees in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The proposed licensing flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Because the enacted budget excludes international activities from the fee-recoverable budget, the NRC is not proposing to charge flat fees for import and export licensing actions of § 170.21. Applications filed on or after the effective date of the FY 2019 final fee rule will be subject to the revised fees in the final rule.

FY 2019 Fee Collection—Fee-Relief and Low-Level Waste (LLW) Surcharge

As previously noted, OBRA–90 requires the NRC to recover only approximately 90 percent of its annual budget authority for the fiscal year. The NRC applies the remaining 10 percent that is not recovered to offset certain budgeted activities—see Table III for a full listing of these ''fee-relief'' activities. If the amount budgeted for these fee-relief activities is greater or less than 10 percent of the NRC's annual budget authority (less the fee-recovery exclusions), then the NRC applies a fee adjustment (either an increase or decrease) to all licensees' annual fees, based on their percentage share of the NRC's budget.

In FY 2019, the amount budgeted for fee-relief activities is less than the 10 percent threshold. Therefore, the NRC proposes to assess a fee-relief credit that decreases all licensees' annual fees based on their percentage share of the budget. Table III summarizes the fee-relief activities budgeted for FY 2019. The FY 2018 amounts are provided for comparison purposes.

TABLE III—FEE-RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2018 budgeted resources final rule	FY 2019 budgeted resources proposed rule	Percentage change
1. Activities not attributable to an existing NRC licensee or class of licensees:			
a. Agreement State oversight	$13.5	$11.5	−14.8
b. Scholarships and Fellowships	15.0	15.0	0.0

[3] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in the Office of Management and Budget (OMB) Circular A–25, *User Charges.* The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research & Test Reactors products within the Operating Reactors business line.

TABLE III—FEE-RELIEF ACTIVITIES—Continued

[Dollars in millions]

Fee-relief activities	FY 2018 budgeted resources final rule	FY 2019 budgeted resources proposed rule	Percentage change
c. Medical Isotope Production Infrastructure	3.9	5.0	28.2
2. Activities not assessed under 10 CFR part 170 service fees or 10 CFR part 171 annual fees based on existing law or Commission policy:			
a. Fee exemption for nonprofit educational institutions	8.7	9.1	4.6
b. Costs not recovered from small entities under 10 CFR 171.16(c)	6.6	8.1	22.7
c. Regulatory support to Agreement States	17.4	14.7	−15.5
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	14.5	13.0	−10.3
e. Uranium recovery program and unregistered general licensees	1.5	7.0	366.7
f. Potential Department of Defense remediation program Memorandum of Understanding activities	1.2	2.1	75.0
g. Non-military radium sites	1.7	1.1	−35.3
Total fee-relief activities	83.9	86.6	3.2
Less 10 percent of the NRC's total FY budget (less the fee recovery exclusions)	−87.8	−86.8	−1.1
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	−3.9	−0.2	94.9

Table IV shows how the NRC proposes to allocate the $0.2 million fee-relief credit to each licensee fee class. Due to the transition of Wyoming to Agreement State status, the NRC is proposing to expand the existing fee relief category, ''*In situ leach rulemaking and unregistered general licensees,*'' to include additional uranium recovery program budgeted resources. This ensures the equitability and stability of annual fees for the uranium recovery fee class by recognizing that now the majority of uranium recovery licensees are in Agreement States.

In addition to the fee-relief credit, the NRC also proposes to assess a generic LLW surcharge of $3.8 million. Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC proposes to allocate this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System. This database contains information on total LLW volumes and NRC usage information from four generator classes: Academic, industrial, medical, and utility. The ratio of utility waste volumes to total LLW volumes over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and materials fee classes. The materials portion is adjusted to account for the fact that a large percentage of materials licensees are licensed by the Agreement States rather than the NRC.

Table IV shows the surcharge, and its proposed allocation across the various fee classes.

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2019

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	74.4	2.8257	86.6	−0.1322	2.6936
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0	4.7	−0.0072	−0.0072
Research and Test Reactors	0.0	0.0	0.2	−0.0003	−0.0003
Fuel Facilities	20.3	0.7708	4.0	−0.0062	0.7646
Materials Users	5.3	0.2012	3.8	−0.0058	0.1955
Transportation	0.0	0.0	0.6	−0.0009	−0.0009
Rare Earth Facilities	0.0	0.0	0.0	0.0	0.0
Uranium Recovery	0.0	0.0	0.1	−0.0002	−0.0002
Total	100.0	3.7978	100.0	−0.1526	3.6451

FY 2019 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005 (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. ''Rebaselining'' entails analyzing the budget in detail and then allocating the budgeted costs to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC proposes to revise its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2019 enacted budget (less the fee-recovery exclusions and the estimated amount to be recovered through 10 CFR part 170 fees). The estimated 10 CFR part 170 collections for this proposed rule are $246.7 million, a decrease of

$34.1 million from the FY 2018 fee rule (see the specific fee class sections for a discussion of this decrease). The NRC, therefore, proposes to recover $535.2 million through annual fees from its licensees, which is an increase of $26.7 million from the FY 2018 final rule.

Table V shows the proposed rebaselined fees for FY 2019 for a representative list of categories of licensees. The FY 2018 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

Class/category of licenses	FY 2018 final annual fee	FY 2019 proposed annual fee	Percentage change
Operating Power Reactors	$4,333,000	$4,697,0000	8.4
+Spent Fuel Storage/Reactor Decommissioning	198,000	163,000	−17.7
Total, Combined Fee	4,531,000	4,860,000	7.3
Spent Fuel Storage/Reactor Decommissioning	198,000	163,000	−17.7
Research and Test Reactors (Non-power Reactors)	81,300	79,000	−2.8
High Enriched Uranium Fuel Facility	7,346,000	6,679,000	−9.1
Low Enriched Uranium Fuel Facility	2,661,000	2,263,000	−15.0
UF_6 Conversion and Deconversion Facility	1,517,000	1,418,000	−6.5
Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b))	49,200	49,200	0.0
Typical Materials Users:			
Radiographers (Category 3O)	25,000	30,200	20.8
Well Loggers (Category 5A)	14,900	14,600	−2.0
All Other Specific Byproduct Material Licensees (Category 3P)	8,600	10,000	16.3
Broad Scope Medical (Category 7B)	30,900	31,800	2.9

The work papers that support this proposed rule show in detail how the NRC proposes to allocate the budgeted resources for each class of licensees and calculate the fees. Paragraphs a. through h. of this section describe budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers.

a. Operating Power Reactors

The NRC proposes to collect $460.3 million in annual fees from the power reactor fee class in FY 2019, as shown in Table VI. The FY 2018 fees and percentage change are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources	$669.9	$670.2	0.0
Less estimated 10 CFR part 170 receipts	−239.6	−213.8	−10.8
Net 10 CFR part 171 resources	430.4	456.4	6.0
Allocated generic transportation	0.3	0.3	0.0
Fee-relief adjustment/LLW surcharge	−0.8	2.7	437.5
Billing adjustment	−0.9	1.0	211.1
Total required annual fee recovery	428.9	460.3	7.3
Total operating reactors	99	98	1.0
Annual fee per reactor	4.333	4.697	8.4

In comparison to FY 2018, the operating power reactors budgeted resources increased minimally in FY 2019. But estimated billings under 10 CFR part 170 declined primarily due to decreases in both licensing actions and inspections resulting from the shutdown of the Oyster Creek reactor at the end of FY 2018, the planned shutdown of Pilgrim and Three Mile Island reactors during FY 2019, and the completion of the APR1400 design certification for Korea Hydro and Nuclear Power Co., LTD. Additionally, estimated billings under 10 CFR part 170 are expected to decline due to the replacement of the 6 percent automatic overhead charge for project manager, resident inspector, and senior resident inspector activities with new directly billed docket-related cost activity codes.

The recoverable budgeted costs are divided equally among the 98 licensed power reactors, resulting in a proposed annual fee of $4,697,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2019 spent fuel storage/reactor decommissioning proposed annual fee of $163,000 (see Table VII and the discussion that follows). The combined proposed FY 2019 annual fee for power reactors is, therefore, $4,860,000.

On May 24, 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMRs). Under the variable annual fee structure, effective June 23, 2016, an SMR's annual fee would be calculated as a function of its licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC is not

proposing an annual fee in FY 2019 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC proposes to collect $19.9 million in annual fees from 10 CFR part 50 power reactors, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to collect the budgeted costs for the spent fuel storage/reactor decommissioning fee class.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources	$33.8	$35.6	5.3
Less estimated 10 CFR part 170 receipts	−10.2	−16.5	61.8
Net 10 CFR part 171 resources	23.7	19.1	−19.4
Allocated generic transportation costs	0.7	0.7	0.0
Fee-relief adjustment	−0.2	0.0	−100
Billing adjustments	0.0	0.1	100
Total required annual fee recovery	24.2	19.9	−17.8
Total spent fuel storage facilities	122	122	0.0
Annual fee per facility	0.198	0.163	−17.7

Compared to FY 2018, the FY 2019 budgeted resources for spent fuel storage/reactor decommissioning increased due to: (1) An increase in the number of financial reviews and licensing actions associated with operating power reactors undergoing decommissioning, (2) the ongoing licensing reviews for two consolidated Interim storage facility license applications including the development of environmental impact statements, and (3) the independent spent fuel storage installation license renewal for Three Mile Island-2, Trojan, and Rancho Seco and the associated environmental assessments.

The 10 CFR part 170 estimated billings for FY 2019 increased due to (1) resuming licensing work on Interim Storage Partner's consolidated interim storage facility application, (2) increasing work on Holtec International's consolidated interim storage facility application, and (3) an increased workload for reactors in decommissioning.

The annual fee decreased due to rising 10 CFR part 170 estimated billings. The required annual fee recovery amount is divided equally among 122 licensees, resulting in a proposed FY 2019 annual fee of $163,000 per licensee.

c. Fuel Facilities

The NRC proposes to collect $24.8 million in annual fees from the fuel facilities class.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources	$35.2	$30.0	−14.8
Less estimated 10 CFR part 170 receipts	−9.2	−7.2	−21.7
Net 10 CFR part 171 resources	26.0	22.8	−12.3
Allocated generic transportation	1.3	1.3	0.0
Fee-relief adjustment/LLW surcharge	0.5	0.8	60.0
Billing adjustments	0.0	0.0	0.0
Total remaining required annual fee recovery[4]	27.7	24.8	−10.5

In comparison to FY 2018, the fuel facilities budgeted resources decreased in FY 2019, primarily due to aligning resources with a smaller projected workload.

The estimated 10 CFR part 170 collections decreased in FY 2019 as a result of the expected termination of the CB&I AREVA MOX Fuel Fabrication facility construction authorization and license application withdrawal, and the expected completion of Honeywell's license renewal, offset by increased work for Westinghouse associated with an emergency preparedness exercise, confirmatory order items and its license renewal.

The NRC proposes to continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in Table IX).

[4] See Table X for percentage change for each fee category.

The annual fees are then distributed across the fee class based on the regulatory effort predicted by the matrix.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2019

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	0	0	0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	21	23
UF_6 Conversion and Deconversion (2.A.(1))	1	12	7

In FY 2019, the total remaining required annual fee recovery amount of $24.8 million is comprised of safety activities, safeguards activities and the fee-relief adjustment/LLW surcharge. For FY 2019, the total budgeted resources to be recovered as annual fees for safety activities are $13.7 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percent of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $10.3 million, to each fee category based on its percent of the total regulatory effort for safeguards activities. Finally, the fuel facility fee class' portion of the fee-relief adjustment/LLW surcharge—$0.8 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2018 final annual fee	FY 2019 proposed annual fee	Percentage change
High-Enriched Uranium Fuel (1.A.(1)(a))	$7,346,000	$6,679,000	−9.1
Low-Enriched Uranium Fuel (1.A.(1)(b))	2,661,000	2,263,000	−15.0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A	N/A
Uranium Enrichment (1.E.)	3,513,000	3,283,000	−6.5
UF_6 Conversion and Deconversion (2.A.(1))	1,517,000	1,418,000	−6.5

d. Uranium Recovery Facilities

The NRC proposes to collect $0.2 million in annual fees from the uranium recovery facilities fee class, a decrease of 60.0 percent from FY 2018.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources	$13.5	$1.1	−91.9
Less estimated 10 CFR part 170 receipts	−12.9	−0.9	−93.0
Net 10 CFR part 171 resources	0.6	0.2	−66.7
Allocated generic transportation	N/A	N/A	N/A
Fee-relief adjustment	−0.1	0.0	100
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	0.5	0.2	−60.0

In comparison to FY 2018, the FY 2019 budgeted resources for uranium recovery licensees decreased due to the transition of Wyoming to Agreement State status and subsequent realignment of the Uranium Mill Tailings Radiation Control Act (UMTRCA) program. In addition, budgeted resources decreased as a result of expanding the existing fee-relief category, ''*In Situ* leach rulemaking and unregistered general licenses'' to include additional Uranium Recovery activities in order to ensure equitability and the stability of annual fees.

The NRC regulates DOE's Title I and Title II activities under UMTRCA [5] and the proposed annual fee to DOE includes the costs specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The DOE's UMTRCA annual fee decreased slightly due to the budgeted resources reduction and an increase in estimated 10 CFR part 170 billings for work on the Atlantic Richfield review. The NRC assesses the remaining 90 percent of its budgeted costs to the remaining licensee in this fee class, as described in the work papers. This is reflected in Table XII as follows:

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

Summary of costs	FY 2018 final annual fee	FY 2019 proposed annual fee	Percentage change
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:			
UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	$80,921	$114,988	42.1
10 percent of generic/other uranium recovery budgeted costs	47,723	5,484	−88.5
10 percent of uranium recovery fee-relief adjustment	−6,724	−21	99.7
Total Annual Fee Amount for DOE (rounded)	122,000	120,000	−1.6
Annual Fee Amount for Other Uranium Recovery Licenses:			
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for UMTRCA Title I and Title II activities	429,509	49,355	−88.5
90 percent of uranium recovery fee-relief adjustment	−60,517	−192	99.7
Total Annual Fee Amount for Other Uranium Recovery Licenses	368,992	49,163	−86.7

Further, for the non-DOE licensees, the NRC continues to use a matrix to determine the effort levels associated with conducting the generic regulatory actions for the different licensees in this fee class; this is similar to the NRC's approach for fuel facilities, described previously.

The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities; and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (for more information, see the work papers). Currently, there is only one remaining non-DOE licensee which is a Basic *In Situ* Recovery facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category:

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	0	0	0	0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	1	190	190	100.0

[5] The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES—Continued

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	0	0	0	0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0	0	0	0
Total	1	190	190	100.0

The annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]

Facility type (fee category)	FY 2018 final annual fee	FY 2019 proposed annual fee	Percentage change
Conventional and Heap Leach mills (2.A.(2)(a))	$38,800	N/A	−100
Basic *In Situ* Recovery facilities (2.A.(2)(b))	49,200	$49,200	0
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	55,700	N/A	−100
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	22,000	N/A	−100
Uranium water treatment (2.A.(5))	6,500	N/A	−100

e. Research and Test Reactors (Non-Power Reactors)

The NRC proposes to collect $0.316 million in annual fees from the research and test reactor licensee class.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources	$2.009	$1.293	−35.6
Less estimated 10 CFR part 170 receipts	−1.698	−1.006	−40.8
Net 10 CFR part 171 resources	0.311	0.287	−7.7
Allocated generic transportation	0.027	0.027	0.0
Fee-relief adjustment	−0.010	0.000	100
Billing adjustments	−0.003	0.002	166.7
Total required annual fee recovery	0.325	0.316	−2.8
Total research and test reactors	4	4	0.0
Total annual fee per reactor	0.0813	.0790	−2.8

For this fee class, the budgeted resources decreased due to projected application delays within the medical isotope production facilities for Shine and NorthWest Medical Isotopes. The 10 CFR part 170 estimated billings also decreased due to projected application delays within the medical isotope production facilities for Shine and NorthWest, offset by an increase in activity for Aerotest's startup inspection and license renewal application. The proposed FY 2019 annual fee decreased due to a decrease in budgeted resources, offset by a decline in estimated 10 CFR part 170 billings.

The required annual fee-recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2019 annual fee of $79,000 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not proposing an annual fee in FY 2019.

g. Materials Users

The NRC proposes to collect $36.5 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total budgeted resources for licensees not regulated by Agreement States	$32.1	$36.0	12.1
Less estimated 10 CFR part 170 receipts	−0.9	−1.0	11.1
Net 10 CFR part 171 resources	31.1	35.0	12.5
Allocated generic transportation	1.3	1.3	0.0
Fee-relief adjustment/LLW surcharge	0.0	0.2	100.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	32.4	36.5	12.7

The annual fee for these categories of materials users' licenses is developed as follows: Annual Fee = Constant × [Application Fee + (Average Inspection Cost/Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost/Inspection Priority) + Unique Category Costs. The total annual fee recovery of $36.5 million proposed for FY 2019 shown in Table XVI consists of the following: $28.6 million for general costs, $7.5 million for inspection costs, $0.2 million for unique costs for medical licenses and $0.2 million for fee relief/LLW costs. To equitably and fairly allocate the $36.5 million required to be collected among approximately 2,600 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee-calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The NRC proposes to both increase and decrease annual fees for licensees in this fee class in FY 2019 due to the results of the biennial review of fees. This analysis examines the actual hours spent in previous years performing licensing actions and then estimates the average professional staff hours that are needed to process similar licensing actions multiplied by the proposed professional hourly rate for FY 2019.

The constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $28.6 million. To derive the constant multiplier, the general cost amount is divided by the product of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.33 for FY 2019. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $278. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $7.5 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the product of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.44 for FY 2019. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2019, unique category costs include approximately $0.2 million in budgeted costs for the implementation of revised 10 CFR part 35, ''Medical Use of Byproduct Material,'' which has been allocated to holders of NRC human-use licenses. Please see the work papers for more detail about this classification.

The annual fee assessed to each licensee also includes a share of the approximately $0.006 million fee-relief credit assessment allocated to the materials users fee class (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2019,'' in Section IV, ''Discussion,'' of this document), and for certain categories of these licensees, a share of the approximately $0.2 million LLW surcharge costs allocated to the fee class. The proposed annual fee for each fee category is shown in the proposed revision to § 171.16(d).

h. Transportation

The NRC proposes to collect $1.2 million in annual fees to recover generic transportation budgeted resources. The FY 2018 values are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2018 final	FY 2019 proposed	Percentage change
Total Budgeted Resources	$7.9	$8.0	1.3
Less Estimated 10 CFR part 170 Receipts	−3.1	−3.3	6.5
Net 10 CFR part 171 Resources	4.7	4.7	0.0
Less Generic Transportation Resources	−3.6	−3.6	0.0
Fee-relief adjustment/LLW surcharge	0.0	0.0	0.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	1.1	1.2	9.1

In comparison to FY 2018, the total budgeted resources for FY 2019 for generic transportation activities increased slightly due to an increase in the Certificates of Compliance (CoCs) for DOE (from 21 to 22) and an increased workload.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A. for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered. The proposed annual fee increase for DOE is mainly due an increase in CoCs from 21 in FY 2018 to 22 in FY 2019.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the research and test reactors fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although four CoCs benefit the entire research and test reactor class, only 4 out of 31 research and test reactors are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactors annual fees has been adjusted to 0.5 so the research and test reactors subject to annual fees are charged a fair and equitable portion of the total. For more information, see the work papers.

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2019

[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	24.0	26.8	$1.3
Operating Power Reactors	5.0	5.6	0.3
Spent Fuel Storage/Reactor Decommissioning	14.0	15.6	0.7
Research and Test Reactors	0.5	0.6	0.0
Fuel Facilities	24.0	26.8	1.3
Sub-Total of Generic Transportation Resources	67.5	75.4	3.6
DOE	22.0	24.6	1.2
Total	89.5	100.0	4.7

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2019—Policy Changes

The NRC proposes two policy changes for FY 2019:

Changes to Small Materials Users Fee Categories for Locations of Use

The NRC proposes to add one new fee subcategory under § 170.31, ''Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses,'' and § 171.16, ''Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.'' Generally speaking, § 170.31 assigns the same fee to each licensee in the fee category, regardless of the amount of locations that the licensee is authorized to use. Yet for some of these fee categories, the NRC determined that it spends a disproportionate amount of time on licensees with six or more locations compared to licensees in the same fee category with fewer than six locations. Previously—in the FY 2015 final fee rule—the NRC therefore added three fee subcategories under one fee category, 3.L. (research and development broad scope). And in the FY 2018 final fee rule, the NRC added seven fee subcategories under, 3.A., 3.B., 3.C., 3.O., 3.P., 7.A. and 7.B. for licenses with six or more locations of use. For the FY 2019 fee rule, the NRC determined that there is one more category of licenses that is affected. Accordingly, the NRC proposes to add subcategories to this fee category:

- Medical licenses under fee category 7.C.

To more accurately reflect the cost of services provided by the NRC, this change would result in this fee category having subcategories for 1–5, 6–20, and more than 20 locations of use.

Eliminate a Fee Category

In response to comments received on the FY 2018 proposed fee rule, the NRC proposes to eliminate a fee category in §§ 170.31 and 171.16. The fee category is 2.A.(5)—Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water.

Under current NRC regulations, an entity that removes uranium from drinking water at community water systems is viewed as a ''2.A.(5) fee category'' licensee for fee purposes.

Although the licensee recovers sufficient quantities of uranium to require an NRC license (or a license from an Agreement State), its licensed material is not sold for profit; rather, the licensed material is a waste product from its water treatment process. These types of ''uranium recovery'' licensees are therefore distinguishable from those licensees that profit from concentrating uranium as source material. The NRC believes that full cost recovery is not warranted for licensees that do not profit from concentrating uranium. Therefore, the NRC proposes to eliminate this fee category from §§ 170.31 and 171.16 and reclassify current and future licensees under this category to 2.F.—All other source material licenses.

FY 2019—Administrative Changes

The NRC also proposes to make an administrative change:

Change Small Entity Fees

The NRC conducted a biennial review in FY 2019 of small entity fees to determine whether the NRC should change those fees. The NRC used the fee methodology, developed in FY 2009, which applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees when performing its biennial review. Based on this methodology, the NRC determined the new small entity fees for FY 2019 should be $4,500 for upper-tier small entities and $900 for lower-tier small entities. As a result of the NRC's FY 2019 biennial review using the same methodology, the NRC is now proposing to increase the upper tier small entity fee from $4,100 to $4,500 and increase the lower-tier fee from $850 to $900. This would constitute a 13-percent and 6-percent increase, respectively. The NRC believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

Update to the Fees Transformation Initiative

As an informal update, the Staff Requirements Memorandum, dated October 19, 2016, for SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' directed staff to explore, as a voluntary pilot, whether a flat fee structure could be established for routine licensing matters in the area uranium recovery, and to accelerate the fees setting process improvements including the transition to an electronic billing system. With respect to the voluntary flat fees pilot, the staff has developed a project plan and is on target to complete this activity in FY 2020. With respect to the fees setting process improvements, all 7 of the activities scheduled for FY 2018 and an additional 10 scheduled for FY 2019 were completed by the end of FY 2018. These improvements included discontinuing the Project Manager/Resident inspector 6 percent overhead charge, enhancing the information included on the 10 CFR part 170 invoices, improving the fee rule work papers, and enhancing the financial management systems. For the remaining process changes recommended for future consideration, the NRC is well-positioned to complete them on schedule. For more information, please see our fees transformation accomplishments schedule, located on our license fees website at: *https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.*

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[6] the NRC has prepared a regulatory flexibility analysis related to this proposed rule. The regulatory flexibility analysis is available as indicated in Section XIV, Availability of Documents, of this document.

VI. Regulatory Analysis

Under OBRA–90, the NRC is required to recover approximately 90 percent of its budget authority in FY 2019. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA–90.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this proposed rule.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, § 50.109, does not apply to this proposed rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

IX. National Environmental Policy Act

The NRC has determined that this rule will amend the NRC's administrative requirements in 10 CFR parts 170 and 171. Therefore, this action is categorically excluded from needing environmental review as described in § 51.22(c)(1). Consequently, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

X. Paperwork Reduction Act

This proposed rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC proposes to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2019, as required by OBRA–90. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2019 proposed fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2019. This guide is available as indicated in Section XIV, Availability of Documents, of this document.

XIII. Public Meeting

The NRC will conduct a public meeting for the purpose of describing the proposed rule and answering questions from the public on the

[6] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

proposed rule. The NRC will publish a notice of the location, time, and agenda of the meeting on the NRC's public meeting website within at least 10 calendar days before the meeting. In addition, the agenda for the meeting will be posted on *www.regulations.gov* under Docket ID NRC–2017–0032. For instructions to receive alerts when changes or additions occur in a docket folder, see Section XIV, Availability of Documents, of this document. Stakeholders should monitor the NRC's public meeting website for information about the public meeting at: *http://www.nrc.gov/public-involve/public-meetings/index.cfm.*

XIV. Availability of Documents

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

Document	ADAMS accession No./web link
FY 2019 Proposed Rule Work Papers	ML18361A780.
FY 2019 Regulatory Flexibility Analysis	ML18347A452.
FY 2019 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide.	ML18338A006.
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR part 171.	*http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.*
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005.	ML052580332.
OMB's Circular A–25, ''User Charges''	*https://www.whitehouse.gov/omb/circulars_default.*
Fees Transformation Accomplishments	*https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.*

Throughout the development of this rule, the NRC may post documents related to this rule, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2017–0032. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder NRC–2017–0032; (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 170 and 171:

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 2. In § 170.21, in the table revise the entry for ''K. Import and export licenses;'' to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1]
* * * * * * *	
K. Import and export licenses: [1]	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b)	N/A
Application—new license, or amendment; or license exemption request	
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a)	N/A
Application—new license, or amendment; or license exemption request	
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances	N/A
Application—new license, or amendment; or license exemption request	
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances	N/A

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees [1]
Application—new license, or amendment; or license exemption request	
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities	N/A
Minor amendment to license	

[1] Because the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, excludes international activities from the fee-recoverable budget in FY 2019, import and export licensing actions will not be charged fees.

■ 3. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
1. Special nuclear material: [11]	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [6] [Program Code(s): 21213]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210].	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities.[6]	
(a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities.[6] [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities.[6] [Program Code(s): 21130, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [6] [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4]	
Application [Program Code(s): 22140]	$1,300.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4]	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,600.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [6] [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[4] [6] [Program Code(s): 22155].	Full Cost.
2. Source material: [11]	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[6] [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6]	
(a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [6] [Program Code(s): 11555]	Full Cost.
(f) Other facilities [6] [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[7] [8]	
Application [Program Code(s): 11210]	$1,200.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	
Application [Program Code(s): 11240]	$4,300.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Code(s): 11230, 11231]	$2,800.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	
Application [Program Code(s): 11710]	$2,600.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	$2,600.
3. Byproduct material: [11]	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03211, 03212, 03213]	$13,000.
(1) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04010, 04012, 04014]	$17,300.
(2) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20.	
Application [Program Code(s): 04011, 04013, 04015]	$21,600.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	$3,600.
(1) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04110, 04112, 04114, 04116]	$4,800.
(2) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20.	
Application [Program Code(s): 04111, 04113, 04115, 04117]	$5,900.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5.	
Application [Program Code(s): 02500, 02511, 02513]	$5,200.
(1) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20.	
Application [Program Code(s): 04210, 04212, 04214]	$6,900.
(2) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20.	
Application [Program Code(s): 04211, 04213, 04215]	$8,600.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	$3,200.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	$6,500.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	$62,000.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255, 03257]	$6,600.
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	$11,600.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	$2,000.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	$1,100.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$5,500.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	$7,300.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20.	
Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	$9,100.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	$8,300.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.	
Application [Program Code(s): 03219, 03225, 03226]	$8,900.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5.	
Application [Program Code(s): 03310, 03320]	$6,300.
(1) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20.	
Application [Program Code(s): 04310, 04312]	$8,500.
(2) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: More than 20.	
Application [Program Code(s): 04311, 04313]	$10,600.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5.	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$4,700.
(1) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20.	
Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	$6,300.
(2) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: More than 20.	
Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	$7,900.
Q. Registration of a device(s) generally licensed under part 31 of this chapter Registration	$700.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	$2,600.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5).	
Application [Program Code(s): 02710]	$2,500.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	$14,200.
4. Waste disposal and processing: [11]	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material.	
Application [Program Code(s): 03231, 03233, 03236, 06100, 06101]	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	$6,900.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	$5,000.
5. Well logging: [11]	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	$4,600.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries: [11]	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	$22,200.
7. Medical licenses: [11]	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5.	
Application [Program Code(s): 02300, 02310]	$11,100.
(1) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20.	
Application [Program Code(s): 04510, 04512]	$14,800.
(2) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: More than 20.	
Application [Program Code(s): 04511, 04513]	$18,500.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1-5.	
Application [Program Code(s): 02110]	$8,700.
(1) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6-20.	
Application [Program Code(s): 04710]	$11,500.
(2) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: More than 20.	
Application [Program Code(s): 04711]	$14,400.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 1-5.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$6,600.
(1) Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 6–20.	
Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	$8,700.
(2) Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: More than 20.	
Application [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	$10,900.
8. Civil defense: [11]	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	$2,600.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	$10,800.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	$9,000.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	$5,300.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	$1,100.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,200.
Inspections	Full Cost.
2. Users.	
Application	$4,200.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections.	
Application [Program Code: 25110]	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance.	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation [11]	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses: [12]	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	N/A.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request	N/A.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	N/A.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	N/A.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	N/A.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of appendix P Category 1 materials requiring Commission review (e.g., exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
I. Requests for each additional government-to-government consent in support of an export license application or active export license.	
Application—new license, or amendment; or license exemption request	N/A.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of appendix P Category 2 materials requiring Commission review (*e.g.* exceptional circumstance review under 10 CFR 110.42(e)(4)).	
Application—new license, or amendment; or license exemption request	N/A.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review.	
Application—new license, or amendment; or license exemption request	N/A.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	N/A.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment.	N/A.
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	$2,100.
17. Master materials licenses of broad scope issued to Government agencies.	
Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

[12] Because the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, excludes international activities from the fee-recoverable budget in FY 2019, import and export licensing actions will not be charged fees.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 4. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

■ 5. In § 171.15, revise paragraphs (b)(1) and (2) introductory text, (c)(1) and (2) introductory text, (d)(1) introductory text, (d)(2) and (3), and (f) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2019 annual fee for each operating power reactor that must be collected by September 30, 2019, is $4,697,000.

(2) The FY 2019 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2019 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2019 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2019 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is $163,000.

(2) The FY 2019 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2019 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2019 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2019 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2019 fee-relief adjustment allocated to the operating power reactor class of licenses is a $132,181 fee-relief credit, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2019 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a $1,349 fee-relief credit. This amount is calculated by dividing the total operating power reactor fee-relief credit, $132,181, by the number of operating power reactors (98).

(3) The FY 2019 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a $7,163 fee-relief credit. The FY 2019 spent fuel storage/reactor decommissioning fee relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is a $58.71 fee-relief credit. This amount is calculated by dividing the total fee-relief credit by the total number of power reactors licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

* * * * *

(f) The FY 2019 annual fees for licensees authorized to operate a research or test (non-power) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$79,000
Test reactor	79,000

■ 6. In § 171.16, revise paragraphs (c), (d), and (e) introductory text to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

NRC small entity classification	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$485,000 to $7 million	$4,500
Less than $485,000	900
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$485,000 to $7 million	4,500
Less than $485,000	900
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	4,500
Fewer than 35 employees	900
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	4,500
Fewer than 20,000	900
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer	
35 to 500 employees	4,500
Fewer than 35 employees	900

(d) The FY 2019 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2019 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2019 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [15] [Program Code(s): 21130]	$6,679,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [15] [Program Code(s): 21210]	2,263,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [15] [Program Code(s): 21310, 21320]	N/A
(b) Gas centrifuge enrichment demonstration facility [15]	N/A
(c) Others, including hot cell facility [15]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [11] [15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	2,900
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	7,500
E. Licenses or certificates for the operation of a uranium enrichment facility [15] [Program Code(s): 21200]	3,283,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	5,500
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	1,418,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100]	N/A
(b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500]	49,200
(c) Expanded *In Situ* Recovery facilities [15] [Program Code(s): 11510]	N/A
(d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities.[15] [Program Code(s): 11555]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4).[15] [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).[15] [Program Code(s): 12010]	N/A

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16] [17] Application [Program Code(s): 11210]	3,100
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	7,900
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	6,100
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	7,400
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	9,500
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	28,800
(1) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 03211, 03212, 03213]	38,300
(2) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	47,600
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	11,800
(1) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	15,600
(2) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	19,200
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	11,000
(1) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	14,500
(2) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215]	18,000
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	11,900
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	11,100
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	88,200
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257]	10,900
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	17,600
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	4,300

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	3,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	15,500
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	20,600
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	25,500
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	15,200
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	18,900
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	30,200
(1) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	40,400
(2) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	50,400
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	10,000
(1) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	13,400
(2) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	16,700
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium–226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: [14]	
(1) Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	7,200
(2) Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	7,500
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	31,000
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	32,900
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	18,700
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	10,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	14,600
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	35,600
7. Medical licenses:	

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	26,100
(1) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	34,700
(2) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	43,400
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02110]	31,800
(1) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04710]	42,200
(2) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04711]	52,500
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 1-5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	15,400
(1) Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 6–20. [Program Code(s):]	20,300
(2) Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: more than 20. [Program Code(s):]	25,300
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	7,200
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	14,300
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	11,900
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	7,000
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,500
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200]	[7] [20] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	330,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,169,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	120,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10] This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2019 fee-relief adjustment are as follows:

* * * * *

Dated at Rockville, Maryland, this 11th day of January, 2019.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2019–00219 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 26

[Docket ID OCC–2018–0011]

RIN 1557–AE22

FEDERAL RESERVE SYSTEM

12 CFR Parts 212 and 238

[Docket No. R–1641]

RIN 7100–AF31

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

RIN 3064–AE57

Thresholds Increase for the Major Assets Prohibition of the Depository Institution Management Interlocks Act Rules

AGENCY: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking and request for public comment.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the agencies) are inviting comment on a proposed rule that would increase the major assets prohibition thresholds for management interlocks in the agencies' rules implementing the Depository Institution Management Interlocks Act (DIMIA). The DIMIA major assets prohibition prohibits a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization). DIMIA provides that the agencies may adjust, by regulation, the major assets prohibition thresholds in order to allow for inflation or market changes. The agencies propose to raise the major assets prohibition thresholds to $10 billion to account for changes in the United States banking market since the current thresholds were established in 1996. The agencies also propose three alternative approaches for increasing the thresholds based on market changes or inflation. Increasing the major assets prohibition thresholds would relieve certain depository organizations below the adjusted thresholds from having to ask the agencies for an exemption from the major assets prohibition. The agencies do not expect the proposal to materially increase anticompetitive risk.

DATES: Comments must be received on or before April 1, 2019.

ADDRESSES: Comments should be directed to:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Thresholds Increase for the Major Assets Prohibition of the Depository Institution Management Interlocks Act Rules'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

Federal eRulemaking Portal— ''*Regulations.gov*'': Go to *www.regulations.gov*. Enter ''Docket ID OCC–201X–0011'' in the Search box and click ''Search.'' Click on ''Comment Now'' to submit public comments.

- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov*.
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–201X–0011'' in your comment. In general, OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- V*iewing Comments Electronically:* Go to *www.regulations.gov*. Enter ''Docket ID OCC–201X–0011'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing-impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

Board: When submitting comments, please consider submitting your comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R–1641 and RIN 7100–AF31, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Email: regs.comments@federalreserve.gov*. Include docket 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 will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Otherwise, comments will not be edited to remove any identifying or contact information. Public comments also may be viewed electronically or in paper in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, identified by RIN 3064–AE57, by any of the following methods:

• *Agency Website: https://www.fdic.gov/regulations/laws/federal/*. Follow instructions for submitting comments on the Agency website.

• *Email: Comments@fdic.gov*. Include the RIN 3064–AE57 on the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN 3064–AE57 for this rulemaking. All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/*, including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT:

OCC: Daniel Perez, Attorney, Christopher Rafferty, Attorney, Chief Counsel's Office, (202) 649–5490; or for persons who are deaf or hearing-impaired, TTY, (202) 649–5597; Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Michelle Kidd, Senior Counsel, (202) 736–5554; Claudia Von Pervieux, Senior Counsel, (202) 452–2552; or Andrew Hartlage, Counsel, (202) 452–6483, of the Legal Division; Katie Cox, Manager, (202) 452–2721; or Melissa Clark, Senior Supervisory Financial Analyst, (202) 452–2277, of the Division of Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf, (202) 263–4869, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

FDIC: Karen J. Currie, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898–3981; Mark Mellon, Counsel, Legal Division, (202) 898–3884; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Summary of Proposed Rule and Policy Objectives

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are inviting comment on a notice of proposed rulemaking (proposed rule or proposal) that would increase the major assets prohibition thresholds for management interlocks in the agencies' rules implementing the Depository Institution Management Interlocks Act (DIMIA).[1] The proposed increase in the thresholds would account for changes in the United States banking market since Congress established the current thresholds in 1996. Under the major assets prohibition of the current rules, a management official[2] of a depository organization[3] (or any affiliate of such organization) with total assets exceeding $2.5 billion may not serve as a management official of an unaffiliated depository organization (or any affiliate of such organization) with total assets exceeding $1.5 billion without seeking an exemption. The proposed rule would increase both thresholds to $10 billion.

In addition, the agencies are proposing three alternative approaches for increasing the asset thresholds, described below.

By increasing the major assets prohibition thresholds, the proposed rule and proposed alternative approaches would reduce the number of depository organizations subject to the major assets prohibition and reduce burden by relieving depository organizations below the increased thresholds from having to ask the agencies for an exemption from the major assets prohibition. The agencies anticipate that raising the thresholds will facilitate small depository organizations in finding qualified directors by eliminating the need to file a request for an exemption from the major assets prohibition.

B. Background

DIMIA—implemented through the agencies' rules at 12 CFR parts 26, 212, 238 subpart J, and 348—fosters competition by prohibiting a management official from serving at the same time as a management official of an unaffiliated depository organization in situations where the management interlock may have an anticompetitive effect.[4] DIMIA and the agencies' rules achieve this purpose through three restrictions.

The first, the community prohibition, prohibits a management official of a depository organization from serving at the same time as a management official of an unaffiliated depository organization if the involved depository organizations (or a depository institution affiliate thereof) have offices in the same community.[5] The second, the relevant metropolitan statistical area (RMSA) prohibition, prohibits a management official of a depository organization from serving at the same time as a management official of an unaffiliated depository organization if the involved depository organizations (or a depository institution affiliate thereof) have offices in the same

[1] 12 U.S.C. 3201 *et seq.*

[2] In the agencies' rules, ''management official'' is defined to include directors; advisory or honorary directors of a depository institution with total assets of $100 million or more; ''senior executive officers,'' as that term is defined in the agencies' rules regarding notice of addition or change of directors and senior executive officers; branch managers; trustees of depository organizations under the control of trustees; and any persons who have a representative or nominee as defined in the agencies' rules on management interlocks, serving in any of the capacities described above. 12 CFR 26.2(j)(1) (OCC); 12 CFR 212.2(j)(1) and 238.92(j)(1) (Board); and 12 CFR 348.2(k)(1) (FDIC).

[3] In the agencies' rules, the term ''depository organization'' means a depository institution or a depository holding company. ''Depository institution'' means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office of a foreign commercial bank, including a branch or agency, is a depository institution. ''Depository holding company'' means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States. 12 CFR 26.2 (OCC); 12 CFR 212.2 and 238.92 (Board); and 12 CFR 348.2 (FDIC).

[4] 12 CFR 26.1(b) (OCC); 12 CFR 212.1(b) and 238.91(b) (Board); and 12 CFR 348.1(b) (FDIC).

[5] In the agencies' rules, ''community'' means a city, town, or village, and contiguous and adjacent cities, towns, or villages. 12 CFR 26.2(c) (OCC); 12 CFR 212.2(c) and 238.92(c) (Board); and 12 CFR 348.2(c) (FDIC).

RMSA [6] and each depository organization has total assets of $50 million or more. The third, the major assets prohibition, prohibits a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. While the first two prohibitions capture the risk of anticompetitive effects from management interlocks between depository organizations that operate within overlapping geographical areas, the major assets prohibition addresses management interlocks between depository organizations that are large enough that a management interlock may present anticompetitive concerns despite the fact that the involved organizations may not have offices in the same community or RMSA.

DIMIA allows the agencies to prescribe regulations that permit otherwise prohibited interlocks under certain circumstances.[7] Pursuant to the general exemption provision of the agencies' regulations, the appropriate agency may exempt a prohibited interlock in response to an application by a depository organization if the appropriate agency finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.[8]

The $1.5 billion and $2.5 billion thresholds for the DIMIA major assets prohibition were enacted through amendments to DIMIA in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).[9] During hearings for EGRPRA, it was noted that the increase of the asset thresholds to $1.5 billion and $2.5 billion was made because the previous asset threshold numbers did not ''realistically reflect the size of large institutions in today's market.'' [10]

DIMIA, as amended, provides that the agencies may adjust the thresholds as necessary ''to allow for inflation or market changes.'' [11] The current major assets thresholds have not been adjusted since 1996, do not reflect the growth and consolidation among U.S. depository organizations that has occurred in the intervening years, and do not realistically reflect the size of large institutions in today's market. For instance, total assets at depository organizations have grown nearly 250 percent between the fourth quarter of 1996 and the fourth quarter of 2017. Moreover, in a March 2017 report to Congress mandated by EGRPRA, the agencies committed to reducing regulatory burden by adjusting the major assets thresholds in the agencies' DIMIA regulations.[12]

II. Description of Proposed Rule

A. Proposal To Increase Asset Thresholds to $10 Billion

The agencies are proposing to raise the major assets prohibition thresholds from $1.5 billion and $2.5 billion to $10 billion each. As proposed, the major assets prohibition would restrict management interlocks between unaffiliated depository organizations with total assets exceeding $10 billion (or any affiliates of such organizations).

The proposed threshold increase, and applying the major assets prohibition to larger depository organizations rather than small institutions (*i.e.,* community banks), is consistent with the purpose of DIMIA.[13] A $10 billion major assets prohibition threshold would prohibit interlocks between larger depository organizations, which could present a risk of anticompetitive conduct at the national banking market level, while exempting smaller or community-banking-organization-sized depository organizations, which do not present the same competitive risks at the national banking market level.

In addition, the proposal is consistent with the current thresholds that Congress and the agencies have used to distinguish between small institutions and larger institutions. For example, section 201 and 203 of the Economic Growth, Regulatory Relief, and Consumer Protection Act provide certain procedural burden relief for institutions with less than $10 billion in total consolidated assets.[14] Additionally, the Dodd-Frank Wall Street Reform and Consumer Protection Act uses a $10 billion threshold to distinguish between large banks subject to supervision by the Bureau of Consumer Financial Protection and small banks subject to prudential regulator supervision.[15] A $10 billion threshold also is consistent with the asset threshold used by the Board to distinguish between community banking organizations and larger banking organizations for supervisory and regulatory purposes,[16] the asset threshold used by the FDIC to distinguish between ''small'' and ''large'' institutions for purposes of its assessment regulations,[17] and the asset threshold used by the OCC to distinguish community banks from midsize and large banks.[18]

Further, having a single, consistent asset threshold would simplify the agencies' DIMIA regulations and enable depository organizations to identify more easily whether they may be subject to the major assets prohibition.

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[6] In the agencies' rules, ''RMSA'' means an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated Primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget. 12 CFR 26.2(m) (OCC); 12 CFR 212.2(m) and 238.92(m) (Board); and 12 CFR 348.2(c) (FDIC).

[7] 12 U.S.C. 3207.

[8] 12 CFR 26.6(a) (OCC); 12 CFR 212.6(a) and 238.96(a) (Board); and 12 CFR 348.6(a) (FDIC). The agencies have published an interagency interpretation that explains which agency is the appropriate agency for purposes of filing a request for a general exemption under the agencies' rules. *See Permissible Interlocks—Regulatory Exceptions; Agency Approval,* 1 Fed. Res. Reg. Serv. (Bd. of Governors of the Fed. Reserve Sys.) § 3–831 (Nov. 18, 1992), 2006 WL 3928616.

[9] *See* Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104–208, Title II, 110 Stat. 3009–9, § 2210(a).

[10] *The Economic Growth and Regulatory Paperwork Reduction Act—S. 650: Hearings Before the Subcomm. on Fin. Insts. and Regulatory Relief of the S. Comm. on Banking, Hous., & Urban Affairs,* 104 Cong. 90 (1995) (statement of Eugene A. Ludwig, Comptroller of the Currency).

[11] 12 U.S.C. 3203.

[12] Federal Financial Institutions Examination Council, Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act, 82 FR 15900, 15903 (Mar. 30, 2017), *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

[13] Legislative history indicates that Congress intended for the major assets prohibition to apply to ''larger'' organizations. *See* H.R. Rep. No. 95–1383, at 5 (1978); S. Rep. No. 95–323, at 13 (1977).

[14] Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, § 201, 203, 132 Stat. 1296, 1306, 1309 (2018) (enacting a ''Community Bank Leverage Ratio'' capital simplification framework that is generally available to depository institutions and depository institution holding companies with $10 billion or less in total consolidated assets and exempting generally from the prohibitions of section 13 of the Bank Holding Company Act of 1956, also known as the ''Volcker Rule,'' certain entities with $10 billion or less in total consolidated assets).

[15] Public Law 111–203, § 1025 & 1026, 124 Stat. 1376, 1990–95 (2010).

[16] Bd. of Governors of the Fed. Reserve Sys., Commercial Bank Examination Manual (rev. Jan. 2018), *https://www.federalreserve.gov/publications/files/cbem.pdf.*

[17] *See* 12 CFR 327.8(e) and (f). For the purposes of the FDIC's assessment regulations, a ''small institution'' generally is an insured depository institution with less than $10 billion in total assets. Generally, a ''large institution'' is an insured depository institution with more than $10 billion in total assets or that is treated as a large institution for assessment purposes under section 327.16(f).

[18] Comptroller's Handbook, ''OCC Community Bank Supervision'' (June 2018), *https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/community-bank-supervision/pub-ch-community-bank-supervision.pdf.*

B. Expected Impact

The proposed rule would increase the number of depository organizations that would no longer be subject to the major assets prohibition and therefore reduce the number of institutions that need to seek an exemption from the major assets prohibition from the appropriate agency.

As of December 31, 2017, 1,021 depository organizations had total assets of more than $1.5 billion and were subject to the major assets prohibition.[19] In addition, 698 depository organizations with total assets of more than the $2.5 billion threshold were subject to restrictions on management interlocks with unaffiliated depository organizations with total assets exceeding the $1.5 billion threshold. If the agencies raise the $1.5 billion asset threshold to $10 billion, they would exempt 764 depository organizations from the major assets prohibition as of December 31, 2017. Of these 764 depository organizations, 224 are FDIC-supervised depository institutions, 113 are OCC-supervised depository institutions, 91 are Board-supervised depository institutions, and 336 are Board-supervised depository holding companies. As of December 31, 2017, 257 depository organizations reported total assets greater than $10 billion and would remain subject to the major assets prohibition.

Increasing the thresholds of the major assets prohibition would allow smaller depository organizations to form management interlocks with other smaller depository organizations and would relieve the depository organization seeking to add a management official from the associated burden of seeking a general exemption from the appropriate agency with respect to such a management interlock (unless the interlock would be prohibited by the community or RMSA prohibitions). The agencies believe that with fewer depository organizations subject to the major assets prohibition thresholds, the proposed rule would expand the pool of available management officials for smaller depository organizations no longer covered by the major assets prohibition.

The agencies do not expect the proposal to materially increase anticompetitive risk. The increase to the major assets prohibition thresholds is insufficient to materially increase the risk of anticompetitive interlocks between depository organizations at the national banking market level, and the proposal does not affect DIMIA prohibitions against interlocks within overlapping geographical areas.

C. Future Adjustments to the Thresholds

Following adjustment of the thresholds by this proposed rule, if adopted, the agencies would make further adjustments to the thresholds to account for inflation through direct final rule without notice and comment pursuant to 12 CFR 26.3(c), 212.3(c), 238.93(c), and 348.3(c). If the agencies determine that further adjustments to the thresholds are warranted for reasons other than inflation, the agencies then would propose another adjustment through a subsequent notice of proposed rulemaking with the opportunity to comment.

III. Alternative Approaches To Adjust the Asset Thresholds

As described above, in order to account for market changes since the agencies' DIMIA regulations were last updated, the agencies propose to increase the major assets prohibition thresholds to $10 billion. The agencies also invite comment on three alternative approaches discussed below. Consistent with the agencies' authority under DIMIA, two of the alternative approaches, like the proposed approach, are based on market changes, and the third alternative approach is based on inflation.[20] Because the proposal and the alternative approaches all would raise the major assets prohibition thresholds, the agencies expect that the impact for each proposal would be similar (*i.e.,* each approach would result in a greater number of depository organizations exempted from the major assets prohibition), varying only in the degree of the impact (*i.e.,* the number of depository organizations exempted).

A. Thresholds Adjustment Based on Percentage of the Number of Banking Organizations Covered by Prohibition

Under the first alternative approach, the agencies would adjust the major assets prohibition thresholds so that approximately the same percentage of the total number of banking organizations[21] that were covered by the thresholds as of the fourth quarter of 1996—the year in which the $1.5 billion and $2.5 billion major assets prohibition thresholds were established by statute—would be covered as of fourth quarter 2017. By adjusting the major assets prohibition thresholds so that they cover the same percentage of the total number of banking organizations as was covered in 1996, this alternative approach accounts for changes in the U.S. banking market and seeks to maintain the prohibition's initial scope and impact—which was limited to only relatively large depository organizations—as well as the protections it provides against anticompetitive risk. This approach would increase the current thresholds of $1.5 billion and $2.5 billion to $7.9 billion and $11.8 billion, respectively.

As of the fourth quarter of 1996, the major assets prohibition thresholds covered the top 1.9 percent and 1.3 percent of banking organizations by asset size. By the fourth quarter of 2017, the percentage of banking organizations covered by the thresholds had increased to 6.83 percent and 4.44 percent. Adjusting the major assets prohibition thresholds to account for this market change would result in adjusted asset thresholds of $7.9 billion and $11.8 billion.

Raising the current $1.5 billion threshold to $7.9 billion would result in an additional 702 depository organizations being exempted from the major assets prohibition. Of these 702 depository organizations, 207 are FDIC-supervised depository institutions, 102 are OCC-supervised depository institutions, 82 are Board-supervised depository institutions, and 311 are Board-supervised depository holding companies. As of December 31, 2017, 78 depository organizations reported total assets greater than $7.9 billion but less than $11.8 billion. Finally, 241 depository organizations reported total assets greater than $11.8 billion and would remain subject to the major assets prohibition.

[19] The analysis in this preamble reflecting changes in the number of depository organizations exempted does not incorporate credit unions because this proposed rule does not apply to credit unions. Data used in this analysis were drawn from the December 31, 1996, and December 31, 2017, Consolidated Reports of Condition and Income (Call Reports), Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, and Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[20] *See* 12 U.S.C. 3203.

[21] The agencies' analysis, and resulting percentages and thresholds, for this approach relies on ''banking organizations'' instead of ''depository organizations'' to avoid double-counting the assets of depository institutions held by depository holding companies that reported consolidated holding company assets. As used here, the term ''banking organization'' includes all depository holding companies, as defined by the agencies' DIMIA regulations, that reported consolidated assets greater than zero and all depository institutions, as defined by the agencies' DIMIA regulations, with reported assets greater than zero that are not consolidated under a holding company.

B. Thresholds Adjustment Based on Asset Growth

Under this second alternative approach, the agencies would propose to adjust the major assets prohibition thresholds to reflect the rate of asset growth for depository organizations over the period between the fourth quarter of 1996 and the fourth quarter of 2017. This approach seeks to replicate the major assets prohibition's coverage of the 1996 banking market by using total asset growth as a measure of market change. Total assets at depository organizations have grown by $15.6 trillion between the fourth quarter of 1996 and the fourth quarter of 2017. This growth represents an increase of three and one-half times the amount of total assets in the fourth quarter of 1996. Under this approach, the current major assets prohibition thresholds would be multiplied by the aforementioned rate of asset growth (3.5) to account for market changes for depository organizations. As a result, the current assets thresholds would be raised from $1.5 billion and $2.5 billion to $5.3 billion and $8.8 billion, respectively.

Raising the $1.5 billion asset threshold to $5.3 billion would result in an additional 616 depository organizations being exempted from the major assets prohibition. Of these 616 depository organizations, 182 are FDIC-supervised depository institutions, 89 are OCC-supervised depository institutions, 74 are Board-supervised depository institutions, and 271 are Board-supervised depository holding companies. As of December 31, 2017, 109 depository organizations reported total assets greater than $5.3 billion, but less than $8.8 billion. Finally, 296 depository organizations reported total assets greater than $8.8 billion and would remain subject to the major assets prohibition.

C. Thresholds Adjustment Increased Based on Inflation

Under the third alternative approach, the agencies would adjust the major assets prohibition thresholds based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Adjusting the asset thresholds based on inflation from the fourth quarter of 1996 to the fourth quarter of 2017 would increase the major assets prohibition thresholds from $1.5 billion and $2.5 billion to $2.3 billion and $3.9 billion, respectively. Although the agencies' current rules allow an adjustment for inflation based on the CPI–W to be published as a final rule without notice and comment, the agencies believe it is appropriate to seek comment on an inflation-based approach given the length of time that has passed without change to the thresholds and given the extent to which the banking market has changed during that time.

Raising the $1.5 billion asset threshold to $2.3 billion would exempt an additional 288 depository organizations from the major assets prohibition. Of these 288 depository organizations, 83 are FDIC-supervised depository institutions, 45 are OCC-supervised depository institutions, 36 are Board-supervised depository institutions, and 124 are Board-supervised depository holding companies. As of December 31, 2017, 219 depository organizations reported total assets greater than $2.3 billion but less than $3.9 billion. Finally, 514 depository organizations reported total assets greater than $3.9 billion and would remain subject to the major assets prohibition.

IV. FDIC Technical Amendments

In addition to the proposed adjustment of the thresholds for the major assets prohibition, the FDIC intends to make two purely technical corrections to FDIC regulations, both pertaining to DIMIA implementation, by means of a separate final rule without notice and comment. The first correction pertains to 12 CFR 303.249 and would remove an erroneous statement. The second pertains to 12 CFR 348.4(i) and would correct a citation. Both technical corrections will be explained in further detail in the FDIC final rule.

V. Request for Comment

The agencies invite comment on all aspects of this proposal, including the specific questions enumerated below.

Question 1: Are depository organizations the appropriate unit for measuring market change for purposes of the agencies' proposal? In addition, are banking organizations the appropriate unit for measuring market change for purposes of the agencies' alternative approach based on the percentage of the number of banking organizations covered by the prohibition? For all of the proposed approaches, would another unit of measurement be more appropriate? If so, what unit of measurement and why?

Question 2: Is the proposed $10 billion asset threshold appropriate to carry out the purposes of the major assets prohibition? Would one of the other alternative approaches proposed to adjust the thresholds be more appropriate to meet the purposes of the major assets prohibition? Would some other dollar amount, or some combination of asset thresholds or factors, be more appropriate? If so, what threshold, factor, or combination thereof would be appropriate, and why?

Question 3: Is the measurement period of the fourth quarter of 1996 through the fourth quarter of 2017, as used in the agencies' alternative approaches, appropriate for purposes of measuring market change? Should the agencies shorten or extend this measurement period? If so, why?

Question 4: Are there any other approaches to adjusting the major assets prohibition thresholds that would be more appropriate than the approaches proposed by the agencies? If so, what approach would be more appropriate and why?

VI. Regulatory Analysis

A. Paperwork Reduction Act of 1995

Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for the OCC is 1557–0014; the Board's is 7100–0134; and the FDIC's is 3064–0118. These information collections will be extended for three years, with revision. The information collection requirements contained in this proposed rulemaking have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR 1320). The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Comments are invited on:

a. Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy or the estimate of the burden of the information collections, 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 the information collections 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.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; facsimile to (202) 395–6974; or email to *oira_submission@omb.eop.gov*, Attention, Federal Banking Agency Desk Officer.

Proposed Information Collection

Title of Information Collection: Management Official Interlocks.

Frequency: Annual, event driven.

Affected Public: Businesses or other for-profit.

Respondents

OCC: National banks, Federal savings associations, and U.S. offices of foreign commercial banks, including Federal branches and agencies.

Board: State member banks (SMBs), bank holding companies (BHCs), savings and loan holding companies (SLHCs), and their affiliates; and U.S. offices of foreign commercial banks, including state-licensed branches and agencies.

FDIC: State nonmember banks, state savings associations, and certain subsidiaries of those entities; and U.S. offices of foreign commercial banks, including insured branches and agencies.

Current Actions: The proposed rule would revise section ____.3, ''Prohibitions,'' of the agencies' DIMIA rules [22] by increasing the major asset prohibition thresholds from $2.5 billion and $1.5 billion to $10 billion each. Section ____.6, ''General Exemption,'' [23] contains a process for applying for an exemption from the prohibitions in section ____.3. With the increase in the major assets prohibition thresholds in section ____.3, it is likely that fewer applications will be filed under section ____.6. Therefore, the agencies have reduced their respondent counts for section ____.6 accordingly. Also, in order to be consistent across the agencies, the agencies are applying a conforming methodology for calculating the burden estimates for the reporting and recordkeeping requirements.

PRA Burden Estimates

OCC

OMB control number: 1557–0014.

Estimated number of respondents: 2.

Estimated average hours per response:

Reporting Sections 26.4(h)(1)(i) and 26.6(b)—4.

Recordkeeping Section 26.5(b)—3.

Estimated annual burden hours: 14.

Board

OMB control number: 7100–NEW (The current management official interlocks reporting and recordkeeping requirements are housed under OMB control number 7100–0134 and will be separated out in a new OMB control number).

Estimated number of respondents: 4.

Estimated average hours per response:

Reporting Sections 212.4(h)(1)(i) and 212.6(b)—4.

Recordkeeping Section 212.5(b)—3.

Estimated annual burden hours: 28.

FDIC

OMB control number: 3064–0118.

Estimated number of respondents: 6.

Estimated average hours per response:

Reporting Sections 348.4(h)(1)(i) and 348.6(b)—4.

Recordkeeping Section 348.5(b)—3.

Estimated annual burden hours: 42.

B. Regulatory Flexibility Act

In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. The SBA has defined ''small entities'' to include certain organizations with total assets less than or equal to $550 million.[24] Under 5 U.S.C. 605(b), this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** along with its rule.

OCC: The OCC currently supervises approximately 886 small entities.[25] Because the major assets prohibition of DIMIA prevents a management official of a depository organization with total assets exceeding $2.5 billion (depository organization threshold) or any affiliate of such organization from serving as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (unaffiliated organization threshold) it is unlikely to affect any OCC-supervised small institutions. Therefore, the OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. In connection with a proposed rule, the RFA requires an agency to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish its stated objectives.[26]

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a

[22] *See* 12 CFR 26.3 (OCC); 12 CFR 212.3 and 238.3 (Board); 12 CFR 348.3 (FDIC).

[23] *See* 12 CFR 26.6 (OCC); 12 CFR 212.6 and 238.6 (Board); 12 CFR 348.6 (FDIC).

[24] 13 CFR 121.201.

[25] The OCC bases its estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2017, to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

[26] 5 U.S.C. 603.

substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered.

1. Reasons for the Proposal

As discussed in the Supplementary Information, the proposed rule would adjust the major assets prohibition thresholds for management interlocks in the Board's rules implementing DIMIA. Under the current major assets prohibition, a management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. For these purposes, the term ''depository organization'' means a depository institution or a depository holding company. ''Depository institution'' means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution. ''Depository holding company'' means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of DIMIA) having its principal office located in the United States.[27] The primary benefit of the proposed rule would be to exclude from the major assets prohibition management interlocks involving depository organizations with total assets in excess of the current asset thresholds but below the proposed asset thresholds. Raising the thresholds will help to facilitate small banks in finding qualified directors by eliminating the need to file a request for an exemption from the major assets prohibition.

2. Statement of Objectives and Legal Basis

As discussed above, the Board's objective in proposing this rule would be to reduce the number of depository organizations subject to the major assets prohibition. The Board has authority under DIMIA to prescribe regulations to carry out DIMIA with respect to state banks that are members of the Federal Reserve System, bank holding companies, and savings and loan holding companies.[28]

3. Description of Small Entities To Which the Regulation Applies

The Board's proposal would apply to state member banks, bank holding companies, and savings and loan holding companies having their principal offices in the United States. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less and trust companies with total assets of $38.5 million or less. As of June 30, 2018, there were approximately 3,053 small bank holding companies, 184 small savings and loan holding companies, and 541 small state member banks. The proposed rule would increase the total asset level at which depository organizations and their affiliates become subject to the major assets prohibition from $1.5 billion and $2.5 billion to $10 billion and $10 billion, respectively.

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements

To the extent that a small entity is subject to the major assets prohibition by virtue of its affiliation with a banking organization that has total assets exceeding $10 billion, the proposed rule would not impose any additional requirements on those small entities because they were already subject to the major assets prohibition. The proposed changes to the major assets prohibition would not impose any new reporting, recordkeeping, and other compliance requirements. Accordingly, the Board believes that the proposed rule will not have a significant economic impact on small banking organizations supervised by the Board.

5. Identification of Duplicative, Overlapping, or Conflicting Federal Regulations

The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed changes to the major assets prohibition thresholds.

6. Discussion of Significant Alternatives

The Board believes that the proposed rule will not have a significant economic impact on small entities supervised by the Board and therefore believes that there are no significant alternatives to the proposed rule that would reduce the economic impact on small entities supervised by the Board.

The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

FDIC: The Regulatory Flexibility Act (RFA) generally requires that, in connection with a proposed rule, an agency prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the rulemaking on small entities.[29] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets less than or equal to $550 million.[30] The FDIC supervises 3,643 depository institutions,[31] of which 2,840 are defined as small banking entities by the terms of the RFA.[32]

The proposed rule will only affect institutions with total consolidated assets between the current thresholds of $1.5 billion and $2.5 billion and the proposed threshold of $10 billion. Therefore, the proposed rule will likely affect zero small entities.

Accordingly, the FDIC believes that the proposed rule will not have a significant impact on a substantial number of small entities. For the reasons described above and pursuant to 5 U.S.C. 605(b), the FDIC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this rule have any significant effects on small entities that the FDIC has not identified?

[27] 12 CFR 212.2 and 231.92.

[28] 12 U.S.C. 3207(2).

[29] 5 U.S.C. 601 *et seq.*

[30] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' 13 CFR 121.201 n.8 (2018). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates . . . .'' 13 CFR 121.103(a)(6) (2018). Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[31] FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

[32] Call Report, December 31, 2017.

C. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the proposed rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The proposed rule does not impose new mandates. Therefore, the OCC concludes that the proposed rule will not result in an expenditure of $100 million or more annually by state, local, and tribal governments or by the private sector.

D. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act of 1994 requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.

The proposed rule would reduce burden and imposes no additional reporting, disclosure, or other requirements on IDIs, including small depository institutions, nor on the customers of depository institutions. Nonetheless, in connection with determining an effective date for the proposed rule, the agencies invite comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and customers of depository institutions.

E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the proposed rule in a simple and straightforward manner, and invite comment on the use of plain language. For example:

- Have the agencies organized the material to inform your needs? If not, how could the agencies present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the proposed rule easier to understand?

List of Subjects

12 CFR Part 26

Antitrust, Banks, banking, Holding companies, Management official interlocks, National banks.

12 CFR Part 212

Antitrust, Banks, banking, Holding companies, Management official interlocks.

12 CFR Part 238

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 348

Antitrust, Banks, banking, Holding companies.

Authority and Issuance

For the reasons stated in the preamble, the OCC proposes to amend 12 CFR part 26, the Board proposes to amend 12 CFR parts 212 and 238, and the FDIC proposes to amend 12 CFR part 348 as follows:

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

■ 1. The authority citation for part 26 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 3201–3208, 5412(b)(2)(B).

■ 2. Section 26.3 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 26.3 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

* * * * *

FEDERAL RESERVE SYSTEM

PART 212—MANAGEMENT OFFICIAL INTERLOCKS (REGULATION L)

■ 3. The authority citation for part 212 continues to read as follows:

Authority: 12 U.S.C. 3201–3208; 15 U.S.C. 19.

■ 4. Section 212.3 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 212.3 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 5. The authority citation for part 238 is revised to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 1813, 1817, 1829e, 1831i, 1972, 3201–3208; 15 U.S.C. 78 *l.*

■ 6. Section 238.93 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 238.93 Prohibitions.

* * * * *

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the

location of the two depository organizations. * * *

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

■ 7. The authority citation for part 348 continues to read as follows:

Authority: 12 U.S.C. 3207, 12 U.S.C. 1823(k).

■ 8. Section 348.3 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 348.3 Prohibitions.

(c) *Major assets.* A management official of a depository organization with total assets exceeding $10 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $10 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. * * *

* * * * *

Dated: December 18, 2018.

William A. Rowe,

Chief Risk Officer.

By order of the Board of Governors of the Federal Reserve System, December 14, 2018.

Ann E. Misback,

Secretary of the Board.

Dated at Washington, DC, this 18th day of December 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–28038 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

NATIONAL MEDIATION BOARD

29 CFR Parts 1203 and 1206

[Docket No. C–7198]

RIN 3140–AA01

Decertification of Representatives

AGENCY: National Mediation Board.

ACTION: Proposed rule with requests for comments.

SUMMARY: The National Mediation Board (NMB or Board) is proposing to amend its regulations to provide a straightforward procedure for the decertification of representatives. The Board believes this change is necessary to fulfill the statutory mission of the Railway Labor Act, protecting employees' right to select their representative. This change will ensure that each employee has a say in their representative and eliminate unnecessary hurdles for employees who no longer wish to be represented.

DATES: Submit comments on or before April 1, 2019. A public hearing will be held at 10 a.m. in Washington, DC at a date and location to be announced later.

ADDRESSES: You may submit comments, identified by Docket No. C–7198, by any of the following methods:

—*Federal eRulemaking Portal: http://regulations.gov*. Follow the instructions for submitting comments.

—*Agency Website: http://www.nmb.gov*. Follow the instructions for submitting comments.

—*Email: legal@nmb.gov*. Include Docket No. C–7198 in the subject line of the message.

—*Fax:* (202) 692–5085.

—*Mail and Hand Delivery:* National Mediation Board, 1301 K Street NW, Ste. 250E, Washington, DC 20005.

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.nmb.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.nmb.gov*.

FOR FURTHER INFORMATION CONTACT: Mary Johnson, General Counsel, National Mediation Board, (202) 692–5040, *legal@nmb.gov*.

SUPPLEMENTARY INFORMATION: The Railway Labor Act (RLA), 45 U.S.C. 151 *et seq.* establishes the NMB whose functions, among others, are to administer certain provisions of the RLA with respect to investigating disputes as to the representative of a craft or class. In accordance with its authority under 45 U.S.C. 152, Ninth, the Board has considered changes to its rules to better facilitate the statutory mission to investigate representation disputes ''among a carrier's employees as to who are the representatives of such employees.''

Currently, while employees have the ability to decertify a representative under the RLA, the process to decertify is unnecessarily complex and convoluted. By failing to have in place a straight-forward process for decertification of a representative, the Board is maintaining an unjustifiable hurdle for employees who no longer wish to be represented and failing to fulfill the statutory purpose of ''freedom of association among employees.'' 45 U.S.C. 151a(2).

Unlike the National Labor Relations Act, the RLA has no statutory provision for decertification of a bargaining representative. The Supreme Court, however, has held that, under Section 2, Fourth, 45 U.S.C. 152, Fourth, employees of the craft or class ''have the right to determine who shall be the representative of the group or, indeed, whether they shall have any representation at all.'' *Bhd. of Railway and Steamship Clerks* v. *Assoc. for the Benefit of Non-Contract Employees,* 380 US 650, 670 (1965)(ABNE). In *ABNE,* the Court further noted that the legislative history of the RLA supports the view that employees have the option of rejecting collective representation. Id. at 669. *citing* Hearings on H.R. 7650, House Committee on Interstate and Foreign Commerce, 73d Cong., 2d Sess., 34–35. In *International Brotherhood of Teamsters* v. *Bhd. of Railway, Airline and Steamship Clerks,* the United States Court of Appeals for the District of Columbia (D.C. Circuit), stated that ''it is inconceivable that the right to reject collective representation vanishes entirely if the employees of a unit once choose collective representation. On its face that is a most unlikely rule, especially taking into account the inevitability of substantial turnover of personnel within the unit.'' 402 F.2d 196, 202 (1968), *See also Russell* v. *National Mediation Board,* 714 F.2d 1332 (1983).

Under its current procedures, the NMB allows indirect rather than direct decertification. The Board does not allow an employee or a group of employees of a craft or class to apply for an election to vote for their current representative or for no union. Employees who wish to become unrepresented must follow a more convoluted path to an election because of the Board's requirement of the ''straw man.'' This straw man requirement means that if a craft or class of employees want to decertify, they must find a person willing to put their name up, *i.e.* ''John Smith,'' and then explain to at least fifty percent of the workforce that John Smith does not want to represent them, but if they want to decertify they have to sign the card authorizing him to represent them. Thus, in order to become unrepresented, employees are required to first sign an authorization card to have a strawman step in to represent them. In the resulting election, the ballot options will include the names of the current representative; John Smith, the strawman applicant; ''no union;'' and an option to write in the name of another

representative. To decertify, employees have to vote for no representation.

It is NMB's statutory mandate to protect employees' freedom to choose a representative. There is, however, no statutory basis for the additional requirement of a straw man where employees seek to become unrepresented. Both courts and the Board have recognized that inherent in the right to representation is the right to be unrepresented. Accordingly, the Board proposes changing its rules to simplify the decertification process and put decertification on an equal footing with certification. Employees may submit authorization cards to decertify their current representative. The wording on the card must be unambiguous and clearly state the intent to no longer be represented by the current union. The showing of interest requirement will be the same showing of interest required for a certification election—at least 50 percent of the craft or class.

The necessity of a straw man will be eliminated, and the ballot will no longer include a strawman representation choice. Once it is determined that the showing of interest is valid and sufficient, the Board will authorize the election with the incumbent and the no representation option, along with a write-in option. The Board's existing run-off rules will apply.

Successful decertification, like certification, is a challenging and significant undertaking by employees with a substantial impact on the workplace for both employees and their employer. In the Board's view, the changes in the employee-employer relationship that occur when employees become represented, change representative or become unrepresented require similar treatment. For this reason, the Board proposes extending the two year time limit on applications in Sec. 1206.4(a) to decertifications as well as certifications. The other time limits set forth in 1206.4 will remain unchanged.

Member Puchala dissents from the Board majority's action in approving the proposed rule.

Executive Order 12866

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act, the NMB certifies that these regulatory changes will not have a significant impact on small business entities. This rule will not have any significant impact on the quality of the human environment under the National Environmental Policy Act.

Paperwork Reduction Act

The NMB has determined that the Paperwork Reduction Act does not apply because this interim regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

29 CFR Part 1203

Air carriers, Labor management relations, Labor unions, Railroads.

29 CFR Part 1206

Air carriers, Labor management relations, Labor union, Railroads.

For the reasons stated in the preamble, the National Mediation Board proposes to amend 29 CFR Chapter X as set forth below:

PART 1203—APPLICATIONS FOR SERVICE

■ 1. The authority citation for part 1203 continues to read as follows:

Authority: 44 Stat. 577, as amended; 45 U.S.C. 151–163.

■ 2. Revise § 1203.2 to read as follows:

§ 1203.2 Investigation of representation disputes.

Applications for the services of the National Mediation Board under section 2, Ninth, of the Railway Labor Act to investigate representation disputes among carriers' employees may be made on printed forms NMB–3, copies of which may be secured from the Board's Representation and Legal Department or on the internet at *www.nmb.gov*. Such applications and all correspondence connected therewith should be filed in duplicate and the applications should be accompanied by signed authorization cards from the employees composing the craft or class involved in the dispute. The applications should show specifically the name or description of the craft or class of employees involved, the name of the invoking organization or individual seeking decertification, the name of the organization currently representing the employees, if any, and the estimated number of employees in each craft or class involved. The applications should be signed by the chief executive of the invoking organization, some other authorized officer of the organization, or an individual seeking decertification. These disputes are given docket numbers in the series ''R''.

PART 1206—HANDLING REPRESENTATION DISPUTES UNDER THE RAILWAY LABOR ACT

■ 1. The authority citation for part 1206 continues to read as follows:

Authority: 44 Stat. 577, as amended; 45 U.S.C. 151–163.

■ 2. Amend § 1206.1 by revising paragraph (b) to read as follows

§ 1206.1 Run-off elections.

* * * * *

(b) In the event a run-off election is authorized by the Board, the two options which received the highest number of votes cast in the first election shall be placed on the run-off ballot. No blank line on which voters may write in the name of any organization, individual, or no representation will be provided on the run-off ballot.

* * * * *

■ 3. Amend § 1206.2 by revising paragraph (a) to read as follows:

§ 1206.2 Percentage of valid authorizations required to determine existence of a representation dispute.

(a)Upon receipt of an application requesting that an organization or individual be certified as the representative of any craft or class of employees, or to decertify the current representative and have no representative, a showing of proved authorizations (checked and verified as to date, signature, and employment status) from at least fifty (50) percent of the craft or class must be made before the National Mediation Board will authorize an election or otherwise determine the representation desires of the employees under the provisions of section 2, Ninth, of the Railway Labor Act.

* * * * *

■ 4. Amend § 1206.4 by revising paragraph (a) to read as follows:

§ 1206.4 Time Limits on Applications

* * * * *

(a) For a period of two (2) years from the date of a certification or decertification covering the same craft or class of employees on the same carrier, and

* * * * *

■ 5. Redesignate §§ 1206.5 through 1206.7 as §§ 1206.6 through 1206.8 and add new § 1206.5 to read as follows:

§ 1206.5 Decertification of Representatives.

Employees who no longer wish to be represented may seek to decertify the current representative of a craft or class in a direct election. The employees must follow the procedure outlines in § 1203.2.

Dated: January 28, 2019.

Mary L. Johnson,

General Counsel.

[FR Doc. 2019–00406 Filed 1–30–19; 8:45 a.m.]

BILLING CODE 7550–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

RIN 3076–AA14

Arbitration Services

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is proposing to revise the current arbitration regulation to clarify existing provisions; eliminate redundancies and provisions that are never used in practice; consolidate sections; update contact information; reduce award submission requirements and reference an apprenticeship alternative for joining the Roster after completion of specified training; implement a modest increase in user fees that have remained unchanged for more than 8 years, and remove section 1404.20.

DATES: Comments must be submitted to the office listed in the address section below on or before January 19, 2019.

ADDRESSES: Submit written comments identified by RIN 3076–AA14, by mail to Arthur Pearlstein, Director, Office of Arbitration Services, FMCS, 250 E Street SW, Washington, DC 20427. Comments may be submitted by fax to (202) 606–8103 or electronically to *apearlstein@fmcs.gov.* Comments may also be sent by electronic mail message over the internet via the Federal eRulemaking Portal. See Federal eRulemaking Portal website (*http://www.regulations.gov*) for instructions on providing comments via the Federal Rulemaking Portal.

All comments will be available for inspection at 250 E Street SW, Washington, DC 20427, Room 7113 (Reading Room) from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Arthur Pearlstein, Director, Office of Arbitration Services, FMCS, 250 E Street SW, Washington, Dc 20427. Telephone: (202) 606–8103.

SUPPLEMENTARY INFORMATION: The enabling legislation for FMCS provides that ''the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration . . .'' 29 U.S.C. 171(b). Pursuant to the statute and 29 CFR part 1404, FMCS has long maintained a roster of qualified, private labor arbitrators to hear disputes arising under collective bargaining agreements and provide fact finding and interest arbitration. The existing regulation establishes the policy and administrative responsibility for the FMCS Roster, criteria and procedures for listing and removal, procedures for using arbitration services, an option for expedited arbitration and, in the appendix, a schedule of user fees.

FMCS is proposing to revise the current arbitration regulation to (1) clarify and shorten existing provisions and naming conventions and make other helpful style improvements; (2) eliminate redundancies and provisions that are never used in practice; (3) consolidate sections for ease of understanding and placement under appropriate headings; (4) update contact information and provisions regarding the use of technology; (5) reduce award submission requirements and reference an apprenticeship alternative for joining the Roster after completion of specified training; and (6) implement a modest increase in user fees that have remained unchanged for more than 8 years. The increased fees more accurately reflect FMCS's costs of maintaining the Roster and the technology to support it, as well as responding to requests for arbitrator panels and biographical data. The arbitrator listing fee increase would only apply to arbitrators on the Roster for 5 or more years, reflecting the greater likelihood for more experienced arbitrators to be selected by parties.

Section-by-Section Analysis

1. In § 1404.1, revise to make minor style improvements

2. In § 1404.3, revise (b) to eliminate ''Services'' from the Office title and use the abbreviated term ''Roster;'' revise (c) to make minor style improvements and eliminate (c)(1)(v) as unnecessary so that that it reads as follows:

3. In § 1404.4, revise (b) for minor style improvements, consolidate relevant portions of (d) and (e) to 1404.9 to place under the relevant heading and reduce verbiage, and revise last paragraph to renumber as (d) and eliminate redundant language.

4. In § 1404.5, revise preamble to update contact information and reflect that Director may designate someone to review Board recommendations; revise (b) to clarify requirements; revise (d) to make minor style improvements; specify in (3) that violations by arbitrators are not limited to late awards; clarify in (5) that information about arbitrator misconduct may come to the attention of FMCS in different ways, and remove existing (6) as extraneous and never used; renumber (7) as (6); and revise (f) for minor style improvements.

5. In § 1404.6, revise for minor style improvements, eliminate excess verbiage, and change language in (b) from ''are encouraged to'' to ''must'' to clarify requirement for arbitrators whose schedules do not permit timely hearing.

6. In § 1404.9, revise (a) to update contact information, and the rest of the section to incorporate consolidations from 1404.4 and 1404.11, rearrange for clarity, and eliminate redundant language.

7. In § 1404.11, moved existing (a) to 1404.9, and otherwise eliminated redundant or extraneous language throughout.

8. In § 1404.12, revised with minor style changes, eliminated existing (b) due to redundant language, clarified ambiguous and confusing language in existing (c) (new (b)), consolidated existing (d) into new (b), and eliminated (f) for unnecessary language.

9. In § 1404.13, revise with minor style improvement and specify that hearings must conform to Code of Professional Responsibility requirements.

10. In § 1404.14, revise to make minor style improvements, clarify language regarding delay and scheduling, clarify time for submitting arbitrator report and fee statement, and change language regarding consent for award publication to conform with requirements of the Code of Professional Responsibility and industry practice.

11. In § 1404.15, revise (a) to allow arbitrators to raise fees with notice if a case continues for over two years after appointment, (b) to allow arbitrators to specify multiple business addresses, and (d) to clarify information on fee disputes.

12. In § 1404.16, revise (a) to update for technology changes and to require arbitrators to provide contact information in the event they become incapacitated or deceased, and (b) to eliminate excess verbiage.

13. In § 1404.17, revise to eliminate excess verbiage.

14. In § 1404.18, revise to make minor style improvements and reduce words.

15. Remove § 1404.20 as the language is unnecessary and has never been applied.

16. Revise the Appendix to change fee schedules.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management

and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities. This regulation does not have any federalism or tribal implications.

List of Subjects in 29 CFR Part 1404

Administrative practice and procedures, Labor management relations.

For the reasons stated in the preamble, FMCS proposes to revise 29 CFR part 1404 to read as follows:

PART 1404—ARBITRATION SERVICES

Subpart A—Arbitration Policy; Administration of Roster

Subpart B—Roster of Arbitrators; Admission and Retention

Subpart C—Procedures for Arbitration Services

Subpart D—Expedited Arbitration

Appendix To Part 1404—Arbitration Policy; Schedule of Fees

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

Source: 62 FR 34171, June 25, 1997, unless otherwise noted.

Subpart A—Arbitration Policy; Administration of Roster

§ 1404.1 Scope and authority.

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Pub. L. 80–101) as amended. It applies to all arbitrators listed on the FMCS Roster of Arbitrators (the Roster), to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes that are to be submitted to arbitration or fact-finding.

§ 1404.2 Policy.

The labor policy of the United States promotes and encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and fact-finding are important features of constructive employment relations as alternatives to economic strife.

§ 1404.3 Administrative responsibilities.

(a) *Director.* The Director of FMCS has responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster and FMCS arbitration procedures.

(b) *Office of Arbitration.* The Office of Arbitration (OA) maintains the Roster; administers subpart C of this part (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new arbitrators; and provides names or panels of names of listed arbitrators to parties requesting them.

(c) *Arbitrator Review Board.* The Arbitrator Review Board (Board) shall consist of a chair and members appointed by the Director who shall serve at the Director's pleasure. The Board shall be composed entirely of full-time officers or employees of the Federal Government and shall establish procedures for carrying out its duties.

(1) Duties of the Board. The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in § 1404.5;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under § 1404.5;

(iii) Recommend to the Director the acceptance or rejection of applicants for listing on the Roster, or the withdrawal of listing on the Roster for any of the reasons set forth in this part;

(iv) At the request of the Director, or upon its own volition, review arbitration policies and procedures, including all regulations and written guidance regarding the use of Roster arbitrators, and make recommendations regarding such policies and procedures to the Director

(2) [Reserved]

Subpart B—Roster of Arbitrators; Admission and Retention

§ 1404.4 Roster and status of members.

(a) *The Roster.* FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in § 1404.5 and who remain in good standing.

(b) *Adherence to Standards and Requirements.* Persons listed on the Roster shall comply with FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by OA pursuant to subpart C of this Part. Arbitrators shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved by the National Academy of Arbitrators, FMCS, and the American Arbitration Association (''the Code'').

(c) *Status of arbitrators.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except that arbitrators are subject to certain reporting requirements and to standards of conduct as set forth in this part.

(d) *Rights of persons listed on the Roster.* No person shall have any right to be listed or to remain listed on the Roster. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are served. To accomplish this purpose, FMCS may establish procedures for the preparation of panels or the appointment of arbitrators or factfinders that include consideration of such factors as background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties.

§ 1404.5 Listing on the roster, criteria for listing and removal, procedure for removal.

Persons seeking to be listed on the Roster must complete and submit an application available online at *https://www.fmcs.gov/services/arbitration/information-joining-arbitrator-roster/.* Upon receipt of an executed application, OA will review the application, ensure that it is complete, make such inquiries as are necessary, and submit the application to the Board. The Board will review the completed application under the criteria in paragraphs (a), (b) and (c) of this section, and will forward to the FMCS Director, or Director's designee, its

recommendation as to whether or not the applicant meets the criteria for listing on the Roster. The Director shall make all final decisions as to whether an applicant may be listed on the Roster. Each applicant shall be notified in writing of the Director's decision and the reasons therefore.

(a) *General Criteria.* (1) Applicants will be listed on the Roster upon a determination that he or she:

(i) Is experienced, competent, and acceptable in decision-making roles in the resolution of labor relations disputes; or

(ii) Has extensive and recent experience in relevant positions in collective bargaining; and

(iii) Is capable of conducting an orderly hearing, can analyze testimony and exhibits and can prepare clear and concise findings and awards within reasonable time limits.

(iv) For applicants who are governmental employees, the following criteria shall also apply:

(A) Federal Employees: These applicants must provide OA with written permission from their employer to work as an arbitrator. Federal employees will not be assigned to panels involving the Federal Government.

(B) Governmental Employees other than Federal: These applicants must provide OA with written permission from their employer to work as an arbitrator as well as a statement of the jurisdiction(s) in which the applicant is permitted to do this work.

(2) FMCS may identify certain positions relating to collective bargaining that will substitute for the General Criteria. FMCS may also identify periodic educational requirements for remaining on the Roster.

(b) *Proof of Qualification.* Unless waived under exceptional circumstances wholly in the discretion of the Director, applicants must:

(1) Submit five recent labor arbitration awards that are final and binding, and prepared by the applicant while serving as an impartial arbitrator of record selected by mutual agreement of the parties to labor relations disputes arising under collective bargaining agreements, or by direct designation by an administrative agency, or

(2) Successfully complete the FMCS labor arbitrator training course and either submit one award as described above or complete an apprenticeship that meets specifications that FMCS may, in its discretion, provide. Applicants must also submit information demonstrating extensive and recent experience in collective bargaining, including at least the position or title held, duties or responsibilities, the name and location of the company or organization, and the dates of employment.

(c) *Advocacy.* Any person who at the time of application is an advocate, as defined in paragraph (c)(1) of this section, must agree to cease such activity before being recommended for listing on the Roster by the Board. Except in the case of persons listed on the Roster as advocates before November 17, 1976, any person who did not divulge his or her advocacy at the time of listing or who becomes an advocate while listed on the Roster and who did not request to be placed on inactive status pursuant to Sec. 1404.6 prior to becoming an advocate, shall be recommended for removal by the Board after the fact of advocacy is revealed.

(1) *Definition of Advocacy.* An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant, in matters of labor relations or employment relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices, equal employment opportunity, and other areas generally recognized as constituting labor or employment relations. The definition includes representatives of employers or employees in individual cases or controversies involving worker's compensation, occupational health or safety, minimum wage, or other labor standards matters.

(2) This definition of advocate also includes a person who is directly or indirectly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm. Individuals engaged only in joint education or training or other non-adversarial activities will not be deemed to be advocates.

(d) Removal from the Roster shall be by decision of the Director of FMCS based upon the recommendations of the Board or upon the Director's own initiative. The Board may recommend for removal, and the Director may remove, any arbitrator listed on the Roster for violation of this part or of the Code. FMCS will provide to the affected arbitrator written notice of removal from the Roster. Complaints about arbitrators should be in writing and sent to the Director of OA. The complaint should cite any specific section(s) of the Code or the FMCS rule the arbitrator has allegedly violated. The following criteria shall be a basis for the Board to recommend and/or the Director to initiate an arbitrator's removal from the Roster:

(1) No longer meets the criteria for admission;

(2) Has become an advocate as defined in paragraph (c) of this section;

(3) Has been repeatedly or flagrantly in violation of one or more provisions of this Part;

(4) Has refused to make reasonable and periodic reports in a timely manner to FMCS, as required in subpart C of this part, concerning activities pertaining to arbitration;

(5) Has been the subject of a complaint by a party who uses FMCS services, or engages in conduct inappropriate for an arbitrator which otherwise comes to the attention of FMCS, and the Board, after appropriate inquiry, concludes that cause for removal has been shown; or

(6) Has been in an inactive status pursuant to § 1404.6 for longer than two years and has not paid the annual listing fee.

(e) *Procedure for Removal.* Prior to any recommendation by the Board to remove an arbitrator from the Roster, the Board shall conduct an inquiry into the facts of any such recommended removal. When the Board recommends removal of an arbitrator, it shall send the arbitrator a written notice. This notice shall inform the arbitrator of the Board's recommendation and the basis for it, and that he or she has 60 days from the date of such notice to submit a written response or information showing why the arbitrator should not be removed. When the Director removes an arbitrator from the Roster, he or she shall inform the arbitrator of this in writing, stating the effective date of the removal and the length of time of the removal if it is not indefinite. An arbitrator so removed may seek reinstatement to the Roster by making written application to the Director no earlier than two years after the effective date of his or her removal.

(f) *Suspension.* The Director of OA may suspend, for a period not to exceed 180 days, any arbitrator listed on the Roster based on any of the criteria in paragraph (d) of this section. Arbitrators shall be promptly notified of a suspension. The arbitrator may appeal a suspension to the Board, which shall make a recommendation to the Director of FMCS. The decision of the Director of FMCS shall constitute the final action of the agency.

§ 1404.6 Inactive status.

(a) An arbitrator on the Roster who continues to meet the criteria for listing on the Roster may request that he or she

be put in an inactive status on a temporary basis.

(b) Arbitrators whose schedules do not permit cases to be heard within six months of assignment must make themselves inactive temporarily until their caseload permits the earlier scheduling of cases.

(c) An arbitrator can remain on inactive status without paying any annual listing fee for a period of two years. If an arbitrator is on inactive status for longer than two (2) years, the arbitrator will be removed from the Roster unless the arbitrator pays the annual listing fee.

§ 1404.7 Listing fee.

All arbitrators will be required to pay an annual fee for listing on the Roster, as set forth in the appendix to this part.

Subpart C—Procedures for Arbitration Services

§ 1404.8 Freedom of choice.

Nothing contained in this part should be construed to limit the rights of parties who use FMCS arbitration services to jointly select any arbitrator or arbitration procedure acceptable to them. Once a request is made to OA, all parties are subject to the procedures contained in this part.

§ 1404.9 Procedures for requesting arbitration lists and panels.

(a) The OA has been delegated the responsibility for administering all requests for labor arbitration services. Requests must be made online at *fmcs.gov/services/arbitration/requesting-a-panel/,* or via email attaching a completed Form R–43 addressed to *arbitration@fmcs.gov*.

(b) Upon request, OA will refer a randomly selected panel of seven arbitrators to parties to an agreement to arbitrate or engage in fact-finding, or where labor arbitration or fact-finding may be provided by statute. A biographical sketch will be provided for each member of the panel. This sketch states the background, qualifications, experience, and all fees as furnished to OA by the arbitrator. The parties are encouraged to make joint requests. However, a panel request, whether joint or unilateral, will be honored. Requests for a panel of other than seven (7) names, for a direct appointment of an arbitrator, and/or for special qualifications or other service will not be honored unless jointly submitted or authorized by both parties pursuant to mutual agreement. The issuance of a panel—in response to either joint or unilateral request—is nothing more than a response to a request. Neither issuance of a panel nor appointment of an arbitrator signifies the adoption of any position by FMCS regarding the status of an arbitration agreement, arbitrability of any dispute, or the terms of the parties' contract.

(c) FMCS has no power to:

(1) Compel parties to appear before an arbitrator;

(2) Enforce an agreement to arbitrate;

(3) Compel parties to arbitrate any issue;

(4) Influence, alter, or set aside decisions of arbitrators on the Roster; or

(5) Compel, deny, or modify payment of compensation to an arbitrator.

(d) OA may decline to submit a panel or to make an appointment of an arbitrator if the request submitted is overly burdensome or otherwise impracticable. OA, in such circumstances, may refer the parties to an FMCS mediator to help in the design of an alternative solution. OA may also decline to service any request from a party based on the party's prior non-payment of arbitrator fees or other behavior that constrains the spirit or operation of the arbitration process.

(e) Panel requests that contain certain special requirements not found among the selections online, cannot be processed via the agency's internet system; instead, parties must submit the pdf version of the R–43 form via email to OA and specify the additional requirements agreed to by both parties.

(f) As an alternative to a panel of arbitrators, OA will, upon written request, submit a list of arbitrators and their biographical sketches from a designated geographical area; the parties may then select and deal directly with an arbitrator of their choice, with no further involvement of FMCS with the parties or the arbitrator, and no assigned case number. The parties may also request FMCS to make a direct appointment of their selection. In such a situation, a case number will be assigned.

(g) OA will charge a fee for all requests for lists, panels, and other major services. Payments for these services must be received with the request for services before the service is delivered and may be paid by either labor or management or both. A schedule of fees is listed in the appendix to this part.

§ 1404.10 Arbitrability.

OA will not decide the merits of a claim by either party that a dispute is not subject to arbitration.

§ 1404.11 Nominations of arbitrators.

(a) All panels submitted to the parties by OA, and all letters issued by OA making a direct appointment, will have an assigned FMCS case number. All future communications with OA should refer to this case number.

(b) OA will provide a randomly selected panel of arbitrators located in geographical areas in proximity of the hearing site, as specified in the request. The parties may jointly request special qualification of arbitrators experienced in certain issues or industries or that possess certain backgrounds, or a panel with no geographic restrictions within the U.S. OA has no obligation to put an individual on any given panel or on a minimum number of panels in any fixed period. If at any time both parties request that a name or names be included, or omitted, from a panel, such name or names will be included, or omitted, unless the number of names is excessive. These inclusions/exclusions may not discriminate against anyone because of age, race, color, gender, national origin, disability, genetic information, or religion.

(c) If the parties do not agree on an arbitrator from the first panel, OA will furnish up to five additional panels to the parties upon joint request, or upon a unilateral request if authorized by the applicable collective bargaining agreement, and payment of additional fees.

§ 1404.12 Selection by parties and appointment of arbitrators.

(a) After receiving a panel of names, the parties must notify OA of their selection of an arbitrator or of the decision not to proceed with arbitration. Upon notification of the selection of an arbitrator, OA will make a formal appointment of the arbitrator. The arbitrator, upon notification of appointment, shall communicate with the parties within 14 days to arrange for preliminary matters, such as the date and place of hearing. Should an arbitrator be notified directly by the parties that he or she has been selected, the arbitrator must promptly notify OA of the selection. The arbitrator must provide OA with the FMCS case number and other pertinent information for OA to make an appointment. A pattern of failure by an arbitrator to notify FMCS of a selection in an FMCS case may result in suspension or removal from the Roster. If the parties settle a case prior to the hearing, the parties must inform the arbitrator as well as OA. Consistent failure to follow these procedures may lead to a denial of future OA services.

(b) Where the parties' collective bargaining agreement permits each party to separately notify OA of its ranked order of preference, or is silent on the manner of selecting arbitrators, FMCS will ask each party to advise OA of its

order of preference by numbering each name on the panel and submitting the numbered list in writing to OA. Upon receiving the rank order from one party, OA will notify the other party that it has fourteen (14) days in which to submit its selections. Where both parties respond, the name that has the lowest combined number will be appointed. If the other party fails to respond, the first party's choice will be honored.

(c) OA will make a direct appointment of an arbitrator only upon joint request or as otherwise provided by this Part.

§ 1404.13 Conduct of hearings.

All proceedings conducted by the arbitrators shall conform to the contractual obligations of the parties, and to the Code. The arbitrator shall comply with § 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, and the arbitrator's decision shall be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an ex parte proceeding of this nature must be based upon evidence presented to the arbitrator.

§ 1404.14 Decision and award.

(a) Arbitrators shall make awards no later than 60 days from the date of the closing of the record, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. However, failure to meet the 60-day deadline will not invalidate the process or award. A failure to render timely awards reflects upon the performance of an arbitrator and may lead to removal from the FMCS Roster.

(b) The parties should inform OA whenever a decision is delayed. The arbitrator shall promptly notify OA if and when the arbitrator:

(1) Cannot schedule or hear a case, and/or render a decision promptly and in accordance with time limits established in this part, or

(2) Learns a dispute has been settled by the parties prior to the decision.

(c) Within 15 days after an award and/or final invoice has been submitted to the parties, the arbitrator shall submit an online Arbitrator's Report and Fee Statement (Form R–19) to OA showing a breakdown of the fee and expense charges.

(d) While FMCS encourages the publication of arbitration awards, arbitrators must not publicize awards without the express consent of the parties in conformance with the Code.

§ 1404.15 Fees and charges of arbitrators.

(a) *Fees to Parties.* Prior to appointment, the parties should be aware of all significant aspects of the bases for an arbitrator's fees and expenses. Each arbitrator's biographical sketch shall include a statement of the bases for the arbitrator's fees and expenses, which shall conform to this part and the Code. The parties and the arbitrator shall be bound by the arbitrator's statement of the bases for fees and expenses in the biographical sketch for two years from the date of appointment unless they mutually agree otherwise in writing. Arbitrators listed on the Roster may change the bases for their fees and expenses for future appointments if they provide them in writing to OA at least 30 days in advance.

(b) *Two or more Addresses.* Arbitrators with more than one business address must bill the parties for expenses from the least expensive business address to the hearing site.

(c) *Additional Administrative Fee.* In cases involving unusual amounts of time and expense relative to the pre-hearing and post-hearing administration of a particular case, the arbitrator may charge an administrative fee. This fee shall be disclosed to the parties as soon as it is foreseeable by the arbitrator.

(d) *Fee Disputes.* When a party believes the arbitrator has not followed the requirements of this Part, it should promptly notify OA, which may bring any complaint concerning the fees charged by an arbitrator to the attention of the Board for consideration. Complaints by arbitrators concerning non-payment of fees by a party may lead to the denial of services or other actions by OA.

§ 1404.16 Reports and biographical sketches.

(a) Arbitrators listed on the Roster shall execute and return all documents, forms and reports required by OA and be responsible for updating their account and bio information online, including changes of address, telephone number, and availability. They must also furnish to OA the contact information for a person they know well whom OA may contact if unable to reach the arbitrator, and who has agreed to contact OA if the arbitrator has become incapacitated or deceased. Arbitrators must contact OA directly when they engage, or are accused of engaging, in any business or other connection or relationship involving labor or employment relations and/or which creates or gives the appearance of advocacy as defined in § 1404.5(c)(1).

(b) OA reserves the right to decide and approve the format and content of biographical sketches.

Subpart D—Expedited Arbitration

§ 1404.17 Policy.

In an effort to reduce the time and expense of some grievance arbitrations, FMCS offers expedited procedures where the parties agree on a streamlined process with short deadlines. Parties may also agree on their own procedures if it is practicable for FMCS.

§ 1404.18 Procedures for requesting expedited panels.

(a) With the exception of the specific changes noted in this Subpart, all FMCS rules and regulations governing its arbitration services shall apply to Expedited Arbitration.

(b) Upon receipt of a joint Request for Arbitration Panel (Form R–43) indicating that both parties desire expedited services, OA will refer a panel of arbitrators which shall be valid for up to 30 days. Only one panel will be submitted per case. If the parties are unable to mutually agree upon an arbitrator or if prioritized selections are not received from both parties within 30 days, OA will make a direct appointment of an arbitrator not on the original panel.

(c) If the parties mutually select an arbitrator, but the arbitrator is not available, the parties may select a second name from the same panel or OA will make a direct appointment of another arbitrator not listed on the original panel.

§ 1404.19 Arbitration process.

(a) Once notified of the expedited case appointment by OA, the arbitrator must contact the parties within seven (7) calendar days.

(b) The parties and the arbitrator must attempt to schedule a hearing within 30 days of the appointment date.

(c) Absent mutual agreement, all hearings will be concluded within one day. No transcripts of the proceedings will be made and the filing of post-hearing briefs will not be allowed.

(d) All awards must be completed within seven (7) working days from the hearing. These awards are expected to be brief and concise, and to not require extensive written opinion or research time.

Appendix to 29 CFR Part 1404—Arbitration Policy; Schedule of Fees

Annual listing fee for arbitrators who have completed less than 5 years on the Roster:

$150 for the first address; $50 for each additional address.

Annual listing fee for arbitrators who have completed 5 or more years on the Roster: $250 for the first address; $100 for each additional address.

Request for panel of arbitrators processed by FMCS staff: $70.00.

Request for panel of arbitrators on-line: $35.00.

Direct appointment of an arbitrator when a panel is not used: $30.00 per appointment.

List and biographic sketches of arbitrators in a specific area: $35.00 per request plus $.25 per page.

Dated: December 18, 2018.

Jeannette Walters-Marquez,

Attorney-Advisor.

[FR Doc. 2018–27759 Filed 1–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1067]

RIN 1625–AA00

Safety Zone: Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish two temporary safety zones on the navigable waters of the Cape Fear River in Brunswick County and New Hanover County, North Carolina. These temporary safety zones are intended to restrict vessel traffic on the Cape Fear River while a vessel transports and offloads one new Post-Panamax container crane to the North Carolina State Port in Wilmington, North Carolina. The first temporary safety zone will be enforced for one day during vessel transit from March 20 through April 15, 2019, and the second temporary safety zone for offload will be enforced for one day within five days after transit. This action is intended to restrict vessel traffic on the Cape Fear River to protect mariners and vessels from the hazards associated with transporting and offloading the assembled container crane. This proposed rulemaking would prohibit vessels or persons from being in the safety zones unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 4, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2018–1067 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On November 14, 2018, the North Carolina State Port Authority notified the Coast Guard that it will be transporting one pre-assembled Post-Panamax container crane up the Cape Fear River to the North Carolina State Port in Wilmington, North Carolina, and offloading it. The planned transit date is March 25, 2019, and the planned offload date is March 27, 2019. Due to crane preconstruction and vessel travel times, the crane could transit as early as March 20, 2019, and as late as April 15, 2019. The transit path will be from the Cape Fear River Entrance Buoy, north through the Cape Fear River to the turning basin, and ending at the North Carolina State Port in Wilmington, North Carolina. The planned offload date is two days after transit, but weather conditions may change the offload date to any day within five days after transit. The Captain of the Port (COTP) North Carolina has determined that potential safety hazards associated with transporting and offloading the container crane would be a concern for anyone transiting the Cape Fear River.

The purpose of this rule is to protect persons, vessels, and the marine environment on the navigable waters on the Cape Fear River during the transport and offload of the container crane. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone on a portion of the Cape Fear River to be enforced during the transit of a vessel transporting one pre-assembled Post-Panamax container crane up the Cape Fear River from March 20 through April 15, 2019, and offloading the container within five days after transit. The currently scheduled transit date is March 25, 2019, and the currently scheduled offload date is March 27, 2019. The transport is expected to take between five and seven hours and the offload is expected to take up to five hours. Exact enforcement times will be based on tide schedules, anticipated sea conditions, and weather conditions, therefore the exact enforcement times will be announced by broadcast to mariners at least two days prior to the transit. The safety zone for the transit will include all navigable waters of the Cape Fear River from the International Regulations for Prevention of Collisions at Sea, 1972 (COLREGS, 72) Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River from shore to shore to the Cape Fear Memorial Bridge, a length of approximately 26 miles. This portion of the safety zone will be enforced until the vessel transporting the crane has been safely moored at North Carolina State Port in Wilmington, North Carolina. The safety zone for the offload will include all navigable waters of the Cape Fear River within 200 yards of the transport vessel while it is moored. The duration of this zone is intended to protect persons, vessels, and the marine environment on the navigable waters of the Cape Fear River during the transport and offload of the container crane. No vessel or person will be permitted to enter the safety zone unless specifically authorized by the Captain of the Port North Carolina or a designated representative. There will be a pre-designated safety vessel ahead of the transport vessel to monitor the flow of traffic and inform mariners that the container crane transit is in progress. Vessels that are less than 40 feet in height and will not impede the transport vessel may request permission to pass through the safety zone or remain in place as the transport vessel passes. The Fort Fisher and Bald Head ferries will be able to operate on their normal schedule as long as the scheduled transit will not come within one mile of the transport vessel and they receive permission from the Captain of the Port North Carolina or a designated

representative. The strict height restriction of 40 feet is required because portions of the transported crane extend over the water on both sides of the transport vessel. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the proposed safety zone. Vessel traffic will not be allowed to enter or transit portions of the Cape Fear River for 2 non-consecutive days from March 20 through April 20, 2019. Vessel traffic will not be allowed to enter or transit a portion of the Cape Fear River for approximately five to seven hours during the transit of the transport vessel, and for up to five hours during the offload after the transit. The Coast Guard will issue a Local Notice to Mariners and transmit a Broadcast Notice to Mariners via VHF–FM marine channel 16 regarding the safety zone. This portion of the Cape Fear River has been determined to be a high traffic area. This rule allows vessels to request permission to pass through the moving safety zone or remain in place as long as they are under the height restriction of 40 feet.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting five to seven hours on all navigable waters of the Cape Fear River from the International Regulations for Prevention of Collisions at Sea, 1972 (COLREGS, 72) Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River from shore to shore to the Cape Fear Memorial Bridge, a length of approximately 26 miles, and a safety zone lasting up to five hours that would prohibit entry within 200 yards of a moored vessel. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–1067 to read as follows:

§ 165.T05–1067 Safety Zone; Cape Fear River, Brunswick County and New Hanover County, NC.

(a) *Location.* The following areas are safety zones:

(1) *Safety zone 1.* All navigable waters of the Cape Fear River from the International Regulations for Prevention of Collisions at Sea, 1972 (COLREGS, 72) Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River from shore to shore to the Cape Fear Memorial Bridge, in Brunswick County and New Hanover County, NC;

(2) *Safety zone 2.* Waters of the Cape Fear River within 200 yards around the vessel transporting the new Post-Panamax container crane to the North Carolina State Port Authority in Wilmington, North Carolina, while the vessel is moored at the North Carolina State Port in Wilmington, North Carolina.

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

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

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

Participants means persons and vessels involved in support of the container crane transport and offload.

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23 apply to the areas described in paragraph (a) of this section.

(2) With the exception of participants, entry into or remaining in these safety zones is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's designated representative. All other vessels must depart the zone immediately.

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

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

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

(e) *Enforcement Periods.* This regulation will be enforced for:

(1) Zone 1 during vessel transit. Vessel transit is anticipated to take one day and will occur from March 20 through April 15, 2019;

(2) Zone 2 during offload of the Post-Panamax container crane. Offload will take one day and will occur within five days after vessel transit is complete.

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

Dated: January 28, 2019.

Bion B. Stewart,

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

[FR Doc. 2019–00562 Filed 1–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0020]

RIN 1625–AA00

Safety Zone; Tanapag Harbor, Saipan, CNMI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a safety zone for navigable waters within Tanapag Harbor, Saipan. This safety zone will encompass the designated swim course for the Escape from Managaha swim event in the waters of Tanapag Harbor, Saipan, Commonwealth of the Northern Mariana Islands. This action is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into the safety zone is prohibited unless authorized by the Captain of the Port (COTP) Guam. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 4, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0020 using the Federal eRulemaking Portal at *https://*

www.regulations.gov. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Todd Wheeler, Sector Guam, U.S. Coast Guard, by telephone at (671) 355–4866, or email at *WWMGuam@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Escape from Managaha swim event is a recurring annual event. We have established safety zones for this swim event in past years.

The purpose of this rule is to ensure the safety of the participants and the navigable waters in the safety zone before, during, and after the scheduled swim event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C 70034 (previously codified in 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 6:30 a.m. to 8:30 a.m. on March 31, 2019. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of Tanapag Harbor for 2 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42

U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting for 2 hours that will prohibit entry within 100-yards of swim participants. Normally such actions are categorically excluded from further review under paragraph L63(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—SAFETY ZONE; TANAPAG HARBOR, SAIPAN, CNMI

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

Authority: 46 U.S.C. 70034 (previously codified in 33 U.S.C 1231); 46 U.S.C. 70051 (previously codified in 50 U.S.C. 191); 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–0020 to read as follows:

165. T14–0020 Safety Zone; Tanapag Harbor, Saipan, CNMI.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Tanapag Harbor, Saipan. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Effective Dates.* This rule is effective from 6:30 a.m. to 8:30 a.m. on March 31, 2019.

(c) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(d) *Waiver.* The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036 (previously codified in 33 U.S.C. 1232) and 46 U.S.C. 70052 (previously codified in 50 U.S.C. 192).

Dated: January 23, 2019.

Christopher M. Chase,

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

[FR Doc. 2019–00563 Filed 1–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2018–0015; FXFR13350700640–190–FF07J00000; FBMS#4500129154]

RIN 1018–BD11

Subsistence Management Regulations for Public Lands in Alaska—2020–21 and 2021–22 Subsistence Taking of Wildlife Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, and methods and means related to taking of wildlife for subsistence uses during the 2020–21 and 2021–22 regulatory years. The Federal Subsistence Board is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This rule would also amend the general regulations on subsistence taking of fish and wildlife.

DATES:

Public meetings: The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to change this proposed rule on several dates between February 5 and March 12, 2019, and then will hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between September 19 and November 5, 2019. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in April 2020. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by March 27, 2019.

ADDRESSES:

Public meetings: The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2018–0015, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas C.J. Doolittle, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA–Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a rural preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations were published in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR part 242.1–28 and 50 CFR part 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA–Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region. Members are appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.

Public Review Process—Comments, Proposals, and Public Meetings

The Councils have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Wrangell	February 12, 2019.
Region 2—Southcentral Regional Council	Anchorage	February 26, 2019.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	February 21, 2019.
Region 4—Bristol Bay Regional Council	Naknek	February 12, 2019.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	March 12, 2019.
Region 6—Western Interior Regional Council	Anchorage	February 20, 2019.
Region 7—Seward Peninsula Regional Council	Nome	March 5, 2019.
Region 8—Northwest Arctic Regional Council	Kotzebue	February 27, 2019.
Region 9—Eastern Interior Regional Council	Fairbanks	March 5, 2019.
Region 10—North Slope Regional Council	Utqiagvik	February 13, 2019.

During April 2019, the written proposals to change the subpart D, take of wildlife regulations, and subpart C, customary and traditional use determinations, will be compiled and distributed for public review. During a subsequent public comment period, written public comments will be accepted on the distributed proposals.

The Board, through the Councils, will hold a second series of public meetings in September through November 2019, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Petersburg	October 8, 2019.
Region 2—Southcentral Regional Council	Seward	October 2, 2019.

Region 3—Kodiak/Aleutians Regional Council	Kodiak	September 19, 2019.
Region 4—Bristol Bay Regional Council	Dillingham	November 5, 2019.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	October 12, 2019.
Region 6—Western Interior Regional Council	Aniak	October 8, 2019.
Region 7—Seward Peninsula Regional Council	Nome	October 22, 2019.
Region 8—Northwest Arctic Regional Council	Kotzebue	October 28, 2019.
Region 9—Eastern Interior Regional Council	Fairbanks	October 15, 2019.
Region 10—North Slope Regional Council	Utqiagvik	October 22, 2019.

Prior to both series of meetings, notices will be published of specific dates, times, and meeting locations in local and statewide newspapers, along with announcements on radio, television and social media sites. Locations and dates may change based on weather or local circumstances. The amount of work on each Council's agenda determines the length of each Council meeting, but typically the meetings are scheduled to last 2 days. Occasionally a Council will lack information necessary during a scheduled meeting to make a recommendation to the Board or to provide comments on other matters affecting subsistence in the region. If this situation occurs, the Council may announce on the record a later teleconference to address the specific issue when the requested information or data is available. These teleconferences are open to the public, along with opportunities for public comment; the date and time will be announced during the scheduled meeting and that same information will be announced through news releases and local radio, television, and social media ads.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in April 2020. The Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, wildlife harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

c. A description of the regulatory change(s) desired;

d. A statement explaining why each change is necessary;

e. Proposed wording changes; and

f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § ____.24, subpart C (the regulations governing customary and traditional use determinations), and §§ ____.25 and ____.26, subpart D (the general and specific regulations governing the subsistence take of wildlife). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once distributed for public review, no additional changes may be made as part of the original submission. During the April 2020 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a recommendation has not been made, by a Council. After that, the Board must approve withdrawal of a proposal. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the Office of Subsistence Management, 907–786–3888, *subsistence@fws.gov,* or 800–877–8339 (TTY), at least 7 business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and federally Recognized Indian Tribes (Tribes) as listed in 79 FR 4748 (January 29, 2014). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations

an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board commits to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

Developing the 2020–21 and 2021–22 Wildlife Seasons and Harvest Limit Regulations

Subpart C and D regulations are subject to periodic review and revision. The Federal Subsistence Board currently completes the process of revising subsistence take of wildlife regulations in even-numbered years and fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. The regulations at § ____.24 pertain to customary and traditional use determinations; the regulations at § ____.25 pertain to general provisions governing the subsistence take of wildlife, fish, and shellfish; and the regulations at § ____ .26 pertain to specific provisions governing the subsistence take of wildlife.

The text of the proposed amendments to 36 CFR parts 242.24, 242.25, and 242.26 and 50 CFR parts 100.24, 100.25, and 100.26 is the final rule for the 2018–2020 regulatory period for wildlife (83 FR 50758; October 9, 2018).

These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA § 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final § 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rulemaking process was conducted in accordance with § 810. That evaluation also supported the Secretaries' determination that these rules will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA § 810(a).

Paperwork Reduction Act (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires June 30, 2019. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review (Executive Order 12866)

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

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

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and

values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority for rural Alaskan residents on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, as described above under *Tribal Consultation and Comment,* the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted this proposed rule under the guidance of Thomas C.J. Doolittle, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Clarence Summers, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA–Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2020–21 and 2021–22 regulatory years.

■ The text of the proposed amendments to 36 CFR 242.24, 242.25, and 242.26 and 50 CFR 100.24, 100.25, and 100.26 is the final rule for the 2018–2020 regulatory periods for wildlife (83 FR 50759; October 9, 2018).

Dated: December 21, 2018.

Thomas C.J. Doolittle,

Acting Assistant Regional Director, U.S. Fish and Wildlife Service.

Dated: December 21, 2018.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2019–00424 Filed 1–30–19; 8:45 am]

BILLING CODE 3411–15–4333–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ47

Urgent Care

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations that govern VA health care. This rule would grant eligible veterans access to urgent care from qualifying non-VA entities or providers without prior approval from VA. This rulemaking would implement the mandates of the VA MISSION Act of 2018 and increase veterans' access to health care in the community.

DATES: Comments must be received on or before March 4, 2019.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to: Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, North West, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ47 Urgent Care.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director of Policy and Planning. 3773 Cherry Creek North Drive, Denver, CO 80209. *Joseph.Duran2@va.gov.* (303) 370–1637. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 6, 2018, section 105 of Public Law 115–182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, amended title 38 of the United States Code (U.S.C.) by adding a new section 1725A, Access to walk-in care. The new section 1725A was further amended through the Department of Veterans Affairs Expiring Authorities Act of 2018 (Pub. L. 115–251). This benefit is intended to offer eligible veterans convenient care for certain, limited, non-emergent health care needs. Section 1725A(a) and (g) direct the Secretary to establish procedures and regulations to ensure eligible veterans are able to access such care from qualifying non-VA entities or providers to ensure their access to care when minor injury or illness arises. VA is required to develop procedures to ensure eligible veterans are able to access this care from qualifying non-VA entities or providers. Eligible veterans would include any enrolled veteran who has received care under chapter 17 of title 38 United States Code (U.S.C.) within the 24-month period preceding the furnishing of care under this section. Care under chapter 17 of title 38, U.S.C., would include any of the following: Care provided in a VA facility, care authorized by VA performed by a community provider, care furnished by a State Veterans home, or urgent care under this proposed section. Qualifying non-VA entities or providers would include any non-VA entity or provider that has entered into a contract, agreement, or other arrangement with VA to provide services under this section.

VA proposes to refer to this benefit as urgent care, instead of walk-in care. As explained in further detail below, this benefit will include care provided at both urgent care facilities and walk-in retail health clinics. We believe referring to this type of care as ''urgent care'' would be consistent with industry practice.

This proposed rule would implement the mandates of section 1725A, as added by the VA MISSION Act of 2018 as amended, by establishing a new § 17.4600.

Proposed paragraph (a) would establish the purpose for this section. We would state that this section establishes procedures for accessing urgent care, which would be available to eligible veterans from qualifying non-VA entities or providers under the requirements established by this rulemaking. This would be consistent with sections 1725A(a) and (g).

Proposed paragraph (b) would define the terms for this section. We would define the term ''eligible veteran'' in proposed paragraph (b)(1) as a veteran described in 38 U.S.C. 1725A(b). Section 1725A(b) defines eligible veterans as those who are enrolled under section 1705(a) of title 38, U.S.C. and who have received medical care under chapter 17 of title 38, U.S.C., within the 24-month period preceding the furnishing of urgent care under this new program. We would not restate the definition in section 1725A in the event that this section is amended in the future. As stated earlier, veterans have received care under chapter 17 of title 38, U.S.C., when they have received care provided in a VA facility, care authorized by VA and performed by a community provider, care furnished by a State Veterans home, or urgent care under this proposed section.

The term ''episodic care'' appears, but is not defined, in section 1725A(h). We propose to define the term ''episodic care'' in proposed paragraph (b)(2) as care or services provided to an eligible veteran for a particular health condition, or a limited set of particular health conditions, without an ongoing relationship being established between the eligible veteran and qualifying non-VA entities or providers. Episodic care would be only for a particular health condition (or a flu shot) or a limited set of particular health conditions, to be addressed in a single visit. For example, an eligible veteran could seek episodic care for a sore throat, an ankle sprain, or both in a single visit. There would be no further relationship between the qualifying non-VA entity or provider and the eligible veteran for the treatment of those health conditions. VA believes that flu shots, as well as therapeutic vaccines that are furnished in the course of treatment of another condition, would be clinically appropriate because the risk of an adverse reaction would be minimal for a flu shot, and therapeutic vaccines would be necessary for the treatment of certain conditions. For example, a veteran seeking treatment for a wound caused by rusted metal requires treatment for the wound and may require a tetanus vaccine as part of the course of treatment. VA acknowledges that there may be other preventive treatments with minimal risk of adverse action, however, VA considers these preventive care treatments to be part of the veteran's longitudinal care, as such, these other treatments should be provided by the veteran's primary care provider and not as part of urgent care. As stated in section 1725A(h), urgent care should not be used for the longitudinal management of health care. These requirements are consistent with the general model of urgent care where patients seek health care for the treatment of minor injuries and illnesses through a single visit.

We propose to define the term ''longitudinal management of conditions'' in proposed paragraph (b)(3) as outpatient care that addresses important disease prevention and treatment goals and is dependent upon bidirectional communications that are ongoing over an extended period of time. Section 1725A(h) excludes from the definition of walk-in care the longitudinal management of conditions; while we would define the term ''longitudinal management of conditions,'' we would also state that, for purposes of this section, the term ''longitudinal care'' is synonymous with longitudinal management of conditions because we believe ''longitudinal care'' is better understood and would be clearer in the context of the regulation. We would only refer to outpatient care because urgent/walk-in care providers do not provide inpatient care or extended care services. The reference to bidirectional communications that are ongoing over an extended period of time is intended to reflect that longitudinal care occurs within the context of an ongoing relationship between the provider and patient.

Proposed paragraph (b)(4) would define the term ''qualifying non-VA entities or providers'' consistent with the definition in section 1725A(c), but we have specifically included Federally-qualified health centers based on section 1725A(d). We would define ''qualifying non-VA entity or provider'' as a non-VA entity or provider, including Federally-qualified health centers as defined in 42 U.S.C. 1396d(l)(2)(B), that has entered into a contract, agreement, or other arrangement with the Secretary to furnish urgent care under the section. VA currently furnishes care in the community through networks of providers that are maintained by third-party administrators. The third-party administrator meets the definition of the qualifying non-VA entity or provider—they are non-VA entities or providers that have entered into a contract or agreement with the Secretary to furnish care and services under this section—and it is through these administrators that the urgent care benefit primarily will be provided.

We propose to define the term ''urgent care'' in proposed paragraph (b)(5). This definition would include several key

conditions as follows. This definition would only apply to this section; other uses of the term ''urgent care'' or ''urgent services'' in other VA regulations, specifically §§ 17.101, 17.106, and 70.71, would not refer to this benefit. Section 1725A(h) defines the term ''walk-in care'' as non-emergent care provided by a qualifying non-Department entity or provider that furnishes episodic care and not longitudinal management of conditions and is otherwise defined through regulations the Secretary shall promulgate. However, VA proposes to use the term ''urgent care'' instead of ''walk-in care.'' Urgent care is an industry standard description of the services described below available at specific provider locations, including Federally Qualified Health Centers (FQHCs) as required under section 1725A(h). VA prefers to use an industry standard name for the benefit.

First, VA proposes to provide in proposed paragraph (b)(5) that urgent care is those services being provided by walk-in retail health clinics or urgent care facilities, as designated by the Centers for Medicare and Medicaid Services, furnished by a qualifying non-VA entity or provider, and as further defined in the paragraph. We believe that defining urgent care to include those services that are furnished by walk-in retail health clinics or urgent care facilities, as designated by the Centers for Medicare and Medicaid Services, would be in alignment with public expectations of the types of urgent care services that are otherwise available under other health care plans. The Centers for Medicare and Medicaid Services currently describes the services that walk-in retail health clinics and urgent care facilities furnish at the following website: *https://www.cms.gov/Medicare/Coding/place-of-service-codes/Place_of_Service_Code_Set.html.* VA's proposed definition would also allow the benefit available under this section to evolve based upon advances in the industry regarding the types of services offered by these clinics and facilities. A qualifying non-VA entity or provider would have to enter into a contract, agreement, or other arrangement with VA to furnish services under this section. This is a requirement of section 1725A(c), and is also a critical part of the definition of a ''qualifying non-VA entity or provider'' under paragraph (b)(4). We note that, while we propose to define the scope of services available as urgent care in paragraph (b)(5), because of our reliance on contracts, agreements, or other arrangements, the actual services available at a particular qualifying non-VA entity or provider may vary. We further note that any care that is provided to an eligible veteran that does not meet this definition, whether it be that the care was provided by a non-qualifying entity or provider or that the care provided was beyond the scope of urgent care as defined in this section, will not be covered by VA. In these situations, the eligible veteran would be liable for the cost of such care.

In proposed paragraph (b)(5)(i)(A), however, VA would not, except as provided for in paragraph (b)(5)(i)(B) or (b)(5)(iii), include preventive health services, as defined in 38 U.S.C. 1701(9). We would exclude generally preventive services because, consistent with the statutory requirement in section 1725A(e), the best way to ensure continuity of care is to have preventive health services coordinated and managed by a primary care provider furnishing longitudinal care. Section 1725A(e) requires that the Secretary ensure continuity of care for eligible veterans receiving this benefit. Preventive health services are a critical component to VA's health care management system. VA believes that urgent care is fundamentally distinct from providing longitudinal health care within VA or the community. The best way to address a veteran's health care needs would be to manage a veteran's preventive health services as part of their overall health care rather than attempting to furnish such services on an episodic and uncoordinated basis. As such, we believe that to ensure continuity of care, as required by section 1725A(e), VA should exclude generally preventive health services from the definition of urgent care.

We would further define urgent care in proposed paragraph (b)(5)(i)(B) to include immunizations against influenza (flu shots), as well as therapeutic vaccines that are necessary in the course of treatment of an otherwise included service. Vaccinations are included within the definition of preventive health services in 38 U.S.C. 1701(9)(G) (which refers to immunizations) and as such would have been excluded under paragraph (b)(5)(i)(A).

We would also add in paragraph (b)(5)(ii) another requirement of urgent care: It must be furnished as ''episodic care for eligible veterans needing immediate non-emergent medical attention, but does not include longitudinal care.'' This is based on the definition of walk-in care in section 1725A(h).

Finally, we propose to state in paragraph (b)(5)(iii) that VA may provide additional services it determines to be appropriate if it is in the interest of eligible veterans', based on identified health needs. VA would inform the public via **Federal Register** document, published as soon as practicable, and other communication as VA determines appropriate. VA's determination that additional services are in the interest of eligible veterans could be made to expand services regionally or nationally and for specified periods of time. This authority would only allow for the provision of services that qualifying non-VA entities or providers would otherwise furnish, but that would be excluded by our definition of the benefit of urgent care. Principally, these services would include preventive health services, including immunizations that are not for influenza or therapeutic vaccines. For example, if there is a localized outbreak of an infectious disease, VA could provide eligible veterans immunizations to prevent this disease as part of urgent care until the outbreak is contained.

Proposed paragraph (c) would establish procedures for urgent care. Procedures are required pursuant to section 1725A(a). We would state in proposed paragraph (c)(1) that eligible veterans may ''receive urgent care from a qualifying non-VA entity or provider without prior approval from VA.'' We believe this would be consistent with the general understanding of urgent and walk-in care, as well as the structure of the statute, which authorizes this benefit outside of the general Veterans Community Care Program under the amendments to section 1703, as made by section 101 of the VA MISSION Act of 2018. The general Veterans Community Care Program requires authorization for services, see amendments to section 1703(a)(3), while there is no similar requirement in section 1725A. This arrangement, combined with the Senate Committee's report on this language, suggest that the purpose of this provision is to ensure that eligible veterans have access to convenient care. See S. Rpt. 115–212, p. 18.

We would provide in proposed paragraph (c)(2) that VA will publish a website containing information on urgent care, including the names, locations, and contact information for qualifying non-VA entities or providers within an eligible veteran's community. The website would also include a list of services and other general information on the urgent care program established under this section.

Proposed paragraph (c)(3) would provide, in general, eligibility under the

section does not affect eligibility for hospital care or medical services under the medical benefits package, as defined in § 17.38, or other benefits addressed in title 38. Nothing in the section waives the eligibility requirements established in other statutes or regulations. This proposed paragraph would address the effect of urgent care on other provisions and programs administered by VA. Proposed paragraph (c)(3) would provide that, generally, eligibility for urgent care does not affect eligibility for hospital care or medical services under the medical benefits package or other benefits addressed in title 38. If particular services have unique eligibility standards, only veterans who are eligible under this section and who meet the eligibility standards for those services can elect to receive urgent care for them. Additionally, nothing in this section waives the eligibility requirements established in other statutes or regulations. However, eligibility for urgent care could affect eligibility for other benefits indirectly. For example, section 1725(b)(2)(B) provides that to be eligible for reimbursement for emergency treatment, a veteran must have received care under chapter 17 of title 38, U.S.C., within the 24-month period preceding the furnishing of such emergency treatment. If a veteran's only care within the 24-month period preceding the furnishing of such emergency treatment was for urgent care pursuant to these regulations, the veteran would satisfy this eligibility requirement and could be eligible for reimbursement for emergency treatment under section 1725.

Proposed paragraph (d) would establish the copayment obligations for eligible veterans. Section 1725A(f)(1)(A) authorizes the Secretary to require an eligible veteran to pay the United States a copayment for each episode of hospital care or medical services provided under the section if the eligible veteran would be required to pay a copayment under this title. Section 1725A(f)(1)(B) states that an eligible veteran not required to pay a copayment under the title may access walk-in care without a copayment for the first two visits in a calendar year. For any additional visits, a copayment at an amount determined by the Secretary may be required. Section 1725A(f)(1)(C) further states that an eligible veteran required to pay a copayment under the title may be required to pay a regular copayment for the first two walk-in care visits in a calendar year. For any additional visits, a higher copayment at an amount determined by the Secretary may be required. Similarly, section 1725A(f)(2) states that after the first two episodes of care furnished to an eligible veteran under the section, the Secretary may adjust the copayment required of the veteran under the subsection based upon the priority group of enrollment of the eligible veteran, the number of episodes of care furnished to the eligible veteran during a year, and other factors the Secretary considers appropriate under the section.

In this rulemaking, we propose to establish a regular copayment for urgent care of $30. An eligible veteran's liability for the $30 regular copayment would depend on the veteran's enrollment category and the number of visits in a calendar year, as further explained below. We note that section 1725A(f)(3), which allows the Secretary to prescribe by rule the amount or amounts of copayments required under this section, allows the Secretary to establish unique regular copayments applicable to urgent care when provided under this section. We further note that section 1725A(f)(4) states that sections 8153(c) and 1703A(j) do not apply to section 1725A(f). Sections 8153(c) and 1703A(j) stipulate that care furnished pursuant to an agreement authorized by one of these sections is subject to the same terms as though provided in a facility of the Department, and that provisions of chapter 17 applicable to veterans receiving such care and services in a VA medical facility shall apply to veterans treated under this section. We interpret these exemptions, along with section 1725A(f)(3), to permit the Secretary to establish unique copayment amounts applicable to urgent care.

Copayments are a common feature of health care, including VA health care. They are an important mechanism for guiding behavior to ensure that patients receive care at an appropriate location. As previously stated in this rulemaking, urgent care does not include longitudinal care. Urgent care is considered to be a convenient option for care, but is not intended to be used as a substitute for traditional primary care. Also, collecting copayments allows VA to utilize its health care resources more efficiently.

VA believes that $30 amount is consistent with the copayments charged by other Federal programs for similar benefits under the TRICARE and Medicare programs. Also, the $30 amount is a reasonable charge because it is considerably less than what is commercially available, which on average is approximately $67, based on an analysis VA conducted of private sector benefits under commercial health plans. This amount is consistent with legislative history suggesting that the copayment amount not exceed $50 per visit. S. Rpt. 115–212, p. 19. We believe that the convenience associated with accessing urgent care merits a copayment amount that could be higher than the amount that would apply if VA furnished that care in a VA facility or through authorized community care. Eligible veterans would not owe copayments at the time of service, consistent with current practice for VA and VA-authorized community care.

Consistent with section 1725A(f)(1)(B), we propose to require all eligible veterans who are enrolled in priority groups 1–6, except those veterans described in § 17.36(d)(3)(iii), to only pay the $30 copayment after three urgent care visits. For further information on priority groups see § 17.36. Although these veterans are not required to pay copayments for other health care services furnished or paid for by VA, section 1725A(f)(1)(B) authorizes VA to start requiring a copayment after two visits, we believe that is appropriate to require a copayment after three visits instead of two. For those veterans who are enrolled in priority groups 7–8, including those veterans described in § 17.36(d)(3)(iii), we propose to charge the $30 for all visits and will not exercise the authority under section 1725A(f)(1)(C) and (f)(2) to increase their copayment rate after two visits.

Therefore, we would state in proposed paragraph (d)(1) that, except as provided in paragraph (d)(2) or (d)(3), an eligible veteran, as a condition for receiving urgent care provided by VA under this section, must agree to pay VA (and is obligated to pay VA) a copayment of $30 if the veteran is enrolled in priority groups 1–6, except those veterans described in § 17.36(d)(3)(iii) and has more than three urgent care visits under this section in a year, or if the veteran is enrolled in priority groups 7–8, including those veterans described in § 17.36(d)(3)(iii). These conditions would be stated in proposed paragraph (d)(1)(i), dealing with veterans enrolled in priority groups 1–6 generally, and in proposed paragraph (d)(1)(ii), dealing with veterans enrolled in priority groups 7–8.

Proposed paragraph (d)(2) would provide that an eligible veteran who receives urgent care under § 17.4600(b)(5)(iii) or urgent care consisting solely of an immunization against influenza (flu shot) is not subject to a copayment under paragraph (d)(1). VA would not charge a copayment for

flu shots to be consistent with private care best practice standards and be in alignment with other Federal programs. The Affordable Care Act requires health insurers to cover the flu shot without charging a copayment or coinsurance. While the insurer can require an individual to go to a specific facility to receive a flu shot, most insurers allow individuals to go to walk-in clinics for this benefit. Additionally, neither Medicare nor TRICARE charges a copayment for the flu shot. If VA were to charge a copayment for flu shots, we would not be aligned with the private sector or other government agencies. Furthermore, VA does not currently require a copayment for a flu shot if veterans receive one at a VA clinic on a walk-in basis, and we believe it is in the veterans' best interest to continue this practice.

Proposed paragraph (d)(3) would provide that if an eligible veteran receives more than one type of care on the same day that would subject the veteran to a copayment under § 17.108, which establishes copayments for inpatient and outpatient care, or § 17.111, which establishes copayments for extended care services, VA would only charge the higher copayment for that day. We would only charge one copayment to reduce the burden on the part of the eligible veteran. This is consistent with how VA charges copayments for multiple VA visits in the same day. See § 17.108(c)(2) and (f). VA would also only charge a single copayment if an eligible veteran receives more than one episode of care under § 17.4600 on the same day.

VA also proposes to amend § 17.105 to reflect the copayments as established in this rulemaking. First, VA would propose to include proposed § 17.4600 among the list of regulatory authorities under which copayments would be subject to a waiver under § 17.105(c). This would ensure that urgent care copayments would be treated the same as other copayments for eligible veterans seeking a waiver of their liability. Second, VA would delete the list of authorities for § 17.105 to comply with the guidelines of the Office of the Federal Register, but would add the complete list of authorities for this regulation, including 38 U.S.C. 1725A, among the authority citations listed for part 17.

VA similarly proposes to amend § 17.108(e) to make clear that the copayment exemptions for outpatient medical care specified in that section also apply to urgent care under this section. This would ensure consistent application of copayment rules for eligible veterans. We would make similar conforming changes regarding the list of authorities for § 17.108.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This rulemaking does not contain any provisions constituting collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not have a significant economic impact on qualifying non-VA entities or providers. To the extent there is any such impact, it would result in increased business and revenue for them. We also do not believe there will be a significant economic impact on insurance companies, as claims would only be submitted for care that would otherwise have been received whether such care was authorized under this Program or not. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is an economically significant regulatory action under Executive Order 12866. VA's regulatory impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its regulatory impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD.

Executive Order 12866 also directs agencies to ''in most cases . . . include a comment period of not less than 60 days.'' This regulation will increase access to care for eligible veterans in local communities across the country. Providing a 30-day comment period will allow the Secretary to expedite the commencement of this new benefit thereby increasing access to health care for eligible veterans. Moreover, we believe that urgent care is a common benefit among other health care plans and thus should not be an unfamiliar benefit to the public. Given general public familiarity with this benefit, we believe that 30 days would be a sufficient period of time for the public to comment on this rulemaking. In sum, providing a 60-day public comment period instead of a 30-day public comment period would be against public interest and the health and safety of eligible veterans. For the above reasons, the Secretary issues this rule with a 30-day public comment period. VA will consider and address comments that are received within 30 days of the date this proposed rule is published in the **Federal Register**.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.009, Veterans Medical Care Benefits; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; and 64.018, Sharing Specialized Medical Resources.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Claims, Day care, Dental health, Government contracts, Health care, Health facilities, Health professions, Health records, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on November 9, 2018, for publication.

Dated: January 25, 2019.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding entries for §§ 17.105, 17.108, and 17.4600 to read in part as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Section 17.105 is also issued under 38 U.S.C. 501, 1721, 1722A, 1724, and 1725A.

Section 17.108 is also issued under 38 U.S.C. 501, 1710, 1725A, 1730A, Sec. 101, Pub. L. 113–146, 128 Stat. 1754.

* * * * *

Section 17.4600 is also issued under 38 U.S.C. 1725A.

§ 17.105 [Amended]

■ 2. Amend § 17.105 by:

■ a. In paragraph (c), removing ''or 17.111'' and adding in its place ''17.111, or 17.4600''.

■ b. Removing the authority citation at the end of the section.

■ 3. Amend § 17.108 by:

■ a. Revising paragraph (e) introductory text.

■ b. Removing the authority citation at the end of the section.

The revision reads as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *

(e) *Services not subject to copayment requirements for inpatient hospital care, outpatient medical care, or urgent care.* The following are not subject to the copayment requirements under this section or § 17.4600.

* * * * *

■ 4. Add § 17.4600 to read as follows:

§ 17.4600 Urgent care.

(a) *Purpose.* The purpose of this section is to establish procedures for accessing urgent care. Eligible veterans may obtain urgent care from qualifying non-VA entities or providers under these requirements.

(b) *Definitions.* The following definitions apply to this section.

(1) *Eligible veteran* means a veteran described in 38 U.S.C. 1725A(b).

(2) *Episodic care* means care or services provided to an eligible veteran for a particular health condition, or a limited set of particular health conditions, without an ongoing relationship being established between the eligible veteran and qualifying non-VA entities or providers.

(3) *Longitudinal management of conditions* means outpatient care that addresses important disease prevention and treatment goals and is dependent upon bidirectional communications that are ongoing over an extended period of time. For purposes of this section, the term ''longitudinal management of conditions'' and ''longitudinal care'' are synonymous.

(4) *Qualifying non-VA entity or provider* means a non-VA entity or provider, including Federally-qualified health centers as defined in 42 U.S.C. 1396d(l)(2)(B), that has entered into a contract, agreement, or other arrangement with the Secretary to furnish urgent care under this section.

(5) *Urgent care* means those services being provided by walk-in retail health clinics or urgent care facilities, as designated by the Centers for Medicare and Medicaid Services, furnished by a qualifying non-VA entity or provider, and as further defined in paragraphs (b)(5)(i) through (iii) of this section.

(i)(A) Except as provided in paragraph (b)(5)(i)(B) or (b)(5)(iii) of this section, urgent care does not include preventive health services, as defined in section 1701(9) of title 38, United States Code.

(B) Urgent care includes immunization against influenza (flu shots), as well as therapeutic vaccines that are necessary in the course of treatment of an otherwise included service.

(ii) Urgent care may only be furnished as episodic care for eligible veterans needing immediate non-emergent medical attention, but does not include longitudinal care.

(iii) If VA determines that the provision of additional services is in the interest of eligible veterans, based upon identified health needs, VA may offer such additional services under this section as VA determines appropriate. Such services may be limited in duration and location. VA will inform the public through a **Federal Register** document, published as soon as practicable, and other communications, as appropriate.

(c) *Procedures.* (1) Eligible veterans may receive urgent care from a qualifying non-VA entity or provider without prior approval from VA.

(2) VA will publish a website containing information on urgent care, including the names, locations, and contact information for qualifying non-VA entities or providers.

(3) In general, eligibility under this section does not affect eligibility for hospital care or medical services under the medical benefits package, as defined in § 17.38, or other benefits addressed in this title. Nothing in this section waives the eligibility requirements established in other statutes or regulations.

(d) *Copayment.* (1) Except as provided in paragraphs (d)(2) and (3) of this section, an eligible veteran, as a condition for receiving urgent care provided by VA under this section, must agree to pay VA (and is obligated to pay VA) a copayment of $30:

(i) After three visits in a calendar year if such eligible veteran is enrolled under § 17.36(b)(1) through (6), except those veterans described in § 17.36(d)(3)(iii) for all matters not covered by priority category 6.

(ii) If such eligible veteran is enrolled under § 17.36(b)(7) or (8), including veterans described in § 17.36(d)(3)(iii).

(2) An eligible veteran who receives urgent care under paragraph (b)(5)(iii) of this section or urgent care consisting solely of an immunization against influenza (flu shot) is not subject to a copayment under paragraph (d)(1) of this section.

(3) If an eligible veteran would be required to pay more than one copayment under this section, or a copayment under this section and a copayment under § 17.108 or § 17.111, on the same day, the eligible veteran will only be charged the higher copayment.

[FR Doc. 2019–00277 Filed 1–30–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0055–P]

RIN 0938–AT52

Administrative Simplification: Modification of the Requirements for the Use of Health Insurance Portability and Accountability Act of 1996 (HIPAA) National Council for Prescription Drug Programs (NCPDP) D.0 Standard

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adopt a modification to the requirements for the use of the Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0), August 2007, National Council for Prescription Drug Programs by requiring covered entities to use the Quantity Prescribed (460–ET) field for retail pharmacy transactions for Schedule II drugs. The modification would enable covered entities to clearly distinguish whether a prescription is a ''partial fill,'' where less than the full amount prescribed is dispensed, or a refill, in the HIPAA retail pharmacy transactions. We believe this modification is important to ensure information is available to help prevent impermissible refills of Schedule II drugs, which would help to address the public health concerns associated with prescription drug abuse in the United States.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. April 1, 2019.

ADDRESSES: In commenting, please refer to file code CMS–0055–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0055–P, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0055–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Geanelle G. Herring, (410) 786–4466. Daniel Kalwa, (410) 786–1352. Angelo Pardo, (410) 786–1836.

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://regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) required the Secretary of the Department of Health and Human Services (HHS) to adopt standards for electronic health care administrative transactions conducted between health care providers, health plans, and health care clearinghouses. In January 2009 (74 FR 3295), the Secretary adopted the National Council of Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, Version D, Release 0, August 2007 (hereinafter referred to as Version D.0) for the following retail pharmacy transactions: Health care claims or equivalent encounter information; referral certification and authorization; and coordination of benefits. As discussed later, a technical issue with Version D.0 necessitates a modification of the requirements for the use of this standard.

A. Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills

The HHS Office of the Inspector General (OIG) conducted a study of Medicare Part D payments for Schedule II drugs that were billed as refills in 2009. Schedule II drugs are of particular interest to regulators because of the public health issues associated with their use and the potential for misuse and abuse. Schedule II drugs are defined, in part, by the Controlled Substances Act (CSA) as those with a high potential for abuse, with use potentially leading to severe psychological or physical dependence (21 U.S.C. 812(b)(2)). The CSA prohibits the refilling of Schedule II drugs; however, in some cases partial fills are permissible. Partial fills of Schedule II drugs were previously allowed only in limited circumstances, including where a pharmacist had less quantity on hand than the prescribed amount of medication, the prescription was for a patient in a LTC facility, or a patient had a terminal illness.[1]

Based on the data from the study, the HHS OIG issued a report in September 2012 titled ''Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills,'' which analyzed all of the 2009 program year prescription drug event (PDE) records for refills of Schedule II drugs.[2] The OIG analyzed 20.1 million records for Schedule II drugs and identified refills according to the numeric values in a particular data field—the Fill Number (403–D3)[3] field. The OIG concluded that the Medicare Part D program had inappropriately paid $25 million for 397,203 Schedule II drug refills and that long-term care

[1] The Drug Enforcement Agency (DEA) indicated in a July 2017 letter to the NCPDP that it was currently promulgating proposed rulemaking to address the changes to 21 CFR 1306.13 (which concerns partial fills of prescriptions for Schedule II controlled substances) made by CARA.

[2] Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills, *https://oig.hhs.gov/oei/reports/oei-02-09-00605.asp*

[3] National Council of Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, Version D, Release 0, August 2007, defines the Fill Number Field as ''403–D3''.

(LTC) facility pharmacies billed for 75 percent of such refills. OIG stated that the Medicare Part D plan sponsors should not have paid for those drugs because federal law prohibits Schedule II drug refills, and concluded that ''[p]aying for such drugs raises public health concerns and may contribute to the diverting of controlled substances and their being resold on the street.'' [4]

PDE records are claim summary records submitted by prescription drug plan sponsors to CMS for every prescription filled by a provider for a Medicare Part D beneficiary. PDE records contain data elements from prescription drug claims. One of those data elements is the Fill Number (403–D3) field. The Version D.0 implementation specifications require that a ''0'' be entered in that field for a new prescription and that the number be sequentially increased by 1 for each refill. For purposes of its report, the OIG methodology specified that any value greater than zero is considered a refill.[5] Accordingly, where it found the value in the Fill Number (403–D3) field in a PDE record to be greater than zero, the OIG concluded that the PDE record was a refill for a Schedule II drug, though it acknowledged, given the fact that LTC facility pharmacies were allowed to dispense partial fills (where less than the full amount prescribed is dispensed) for Schedule II drugs under certain conditions, that it was possible some LTC facility pharmacies may have incorrectly billed partial fills of these drugs as refills.

In its written response to the OIG report,[6] the Centers for Medicare & Medicaid Services (CMS) noted its concern that the OIG's strict interpretation of PDE data did not support the OIG's findings. CMS believed that the OIG's findings were based in part on a misinterpretation of Schedule II drug partial fills dispensed to LTC facility residents as refills. The NCPDP maintains a work group, known as WG9 Government Programs Medicare Part D FAQ Task Group (hereinafter referred to as Task Group), designed to guide federal pharmacy programs on NCPDP standards. CMS made an inquiry to the Task Group, noting that although the OIG report appeared to misinterpret partial fills dispensed to patients in LTC facility pharmacies as refills, it was not aware of any means by which such a pharmacy could distinguish partial fills of a controlled substance prescription for billing purposes without using the Fill Number (403–D3) field. This inquiry resulted in NCPDP submitting Designated Standard Mainenance Organization (DSMO) change request #1182 [7] to update the pharmacy standard.

In August 17, 2000 **Federal Register** (65 FR 50312), we published a final rule titled ''Health Insurance Reform: Standards for Electronic Transactions'' in which the Secretary adopted procedures to maintain existing HIPAA standards, modify existing HIPAA standards, and adopt new HIPAA standards. This August 2000 final rule also established a new category of organization, entitled ''Designated Standard Maintenance Organization (DSMO).'' DSMOs which are accredited by the American National Standards Institute (ANSI), are responsible for maintaining the standards adopted under HIPAA and are required to receive and process change requests proposals for new standards or the modification of existing standards. Individuals, entities and organizations that believe an adopted standard requires modification may submit change requests to the appropriate DSMO. The change request must be accompanied by a documented business case that supports the recommendation. The DSMO, through committee structure, will then review the request and notify the appropriate Standard Development Organization, in this case, whether it approves or rejects the modification request. Approved recommendations are then forwarded to National Committee of Vital Health Statistics (NCVHS) by the DSMO. NCVHS reviews the recommendation and, through its own committee structure, determines whether or not to formally recommend adoption of the modification by the Secretary of HHS.

DSMO change request #1182, was done in response to CMS request to the Task Group if there was a way to appropriately use the current NCPDP D.0 standard to distinguish partial fills of a controlled substance prescription from refills in LTC facility pharmacy claims. The Task Group replied in a letter [8] to CMS advising that the Version D.0 implementation specification does not support the OIG's findings regarding the use of the Fill Number (403–D3) field, further stating that the industry uses the Fill Number (403–D3) field to represent the fill number (that is, the amount actually dispensed) and not necessarily the refill number. The Task Group indicated it would work on a clarification to avoid further misinterpretation, advising CMS that the NCPDP would recommend changes to the standard to allow Version D.0 to specify the conditional use of the Quantity Prescribed (460–ET) field, which is not used in the claim billing transaction, to indicate the actual quantity prescribed in the transmission of the claim, which would make data available to validate whether there are inappropriate fills in excess of the quantity prescribed. The NCPDP effected this change in its November 2012 publication of Version D.0, which required the use of the Quantity Prescribed (460–ET) field when claims for Schedule II drugs are submitted to Medicare Part D. NCPDP's modification to the standard addressed Medicare Part D only, therefore HHS has not adopted the 2012 version because it is limited to Medicare Part D only. Therefore, HIPAA covered entities may not use it to remain in compliance with HIPAA. HHS believes that by modifying the requirements for the use of the NCPDP Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0), August 2007, all covered entities, not just entities submitting Medicare Part D transactions, to clearly distinguish whether a prescription is a ''partial fill,'' where less than the full amount prescribed is dispensed, or a refill, in the HIPAA retail pharmacy transactions.

B. National Committee on Vital and Health Statistics (NCVHS) Recommendation

The National Committee on Vital and Health Statistics (NCVHS) was established by statute in 1949; it serves as an advisory committee to the Secretary and is statutorily conferred a significant role in the Secretary's adoption and modification of HIPAA standards. On June 21, 2013, the NCVHS wrote to the Secretary that it agreed with the NCPDP's recommended plan to allow Version D.0 to specify the conditional use of the Quantity Prescribed (460–ET) field in a republished Version D.0 with an explanation in the Editorial Corrections section and a change to the Version D.0 Editorial Document.[9] The NCVHS indicated that with this change, ''data will be available to validate whether or

[4] Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills, page 13 *https://oig.hhs.gov/oei/reports/oei-02-09-00605.asp.*

[5] Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills, page 6 *https://oig.hhs.gov/oei/reports/oei-02-09-00605.asp.*

[6] Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills, page 17 *https://oig.hhs.gov/oei/reports/oei-02-09-00605.asp.*

[7] *https://www.ncpdp.org/NCPDP/media/pdf/OESS_request_20121115.pdf.*

[8] *https://www.ncpdp.org/NCPDP/media/pdf/OESS_request_20121115.pdf.*

[9] To review the recommendation, see *http://www.ncvhs.hhs.gov/wp-content/uploads/2014/05/130621lt1.pdf.*

not there are inappropriate fills in excess of the quantity prescribed, a concern raised in a September, 2012 report from the HHS Office of the Inspector General.'' In light of the opioid crisis, HHS believes in the importance of a targeted modification of the Version D.0 standard, to ensure the availability of data to indicate whether Schedule II drugs are being inappropriately filled, and we are proposing requirements for the use of Version D.0 to specify that covered entities must treat the Quantity Prescribed (460–ET) field as required for retail pharmacy transactions.

C. Congressional and Administration Actions in Response to the Opioid Crisis

During the last decade the nation has experienced worsening issues with opioid addiction and overdose deaths, prompting various Congressional and Administration actions. For example, the Comprehensive Addiction and Recovery Act (CARA) (Pub. L. 114–198) was enacted on July 22, 2016, and amended the CSA to allow a pharmacist to partially fill a prescription for a Schedule II controlled substance if: (1) Such partial fills are not prohibited by state law; (2) a partial fill is requested by the patient or prescribing practitioner; and (3) the total quantity dispensed in a partial fill does not exceed the quantity prescribed. Partial fills of Schedule II drugs were previously allowed only in limited circumstances, including where a pharmacist had less quantity on hand than the prescribed amount of medication, the prescription was for a patient in a LTC facility, or a patient had a terminal illness.[10]

We believe CARA's implementation will yield an upsurge of partial refills, which supports the need for this proposed modification. That view is echoed in a May 31, 2017 letter the NCPDP sent to the DEA, which said ''[w]ith implementation of the CARA partial Fill Provision, the potential exists for a significant increase in the number of occurrences of a prescription for a Schedule II controlled substance being partially filled.''

At the President's direction, the Secretary of HHS declared a nationwide public health emergency to address the opioids crisis on October 26, 2017.[11] The President also declared a nationwide public health emergency pertaining to the opioid crisis and directed the heads of executive departments and agencies to use all lawful means to exercise all appropriate emergency and other relevant authorities to reduce the number of deaths and minimize the devastation the drug demand and opioid crisis inflicts upon American communities. To address the crisis, HHS also announced a 5-Point Strategy calling for better: (1) Addiction prevention, treatment, and recovery services; (2) data; (3) pain management; (4) targeting of overdose reversing drugs; and (5) research.[12] The requirements proposed in this rule would support one of HHS's top opioid strategic priorities calling for better data, which could ultimately result in reduced drug supply.

II. Provisions of the Proposed Regulations

A. Proposed Modification to the Requirements for Use of the Telecommunication Standard Implementation Guide Version D, Release 0 (Version D.0), August 2007, NCPDP

As discussed earlier, covered entities inconsistently reflect partial fills and fill numbers in the HIPAA retail pharmacy transactions that utilize Version D.0 because the currently adopted Version D.0 does not permit covered entities to use the Quantity Prescribed (460–ET) field. As a result, stakeholders cannot reliably discern from transactions data when a Schedule II drug has been partially filled or refilled. To remedy this problem, we are proposing to require, under the circumstances explained later, the Quantity Prescribed (460–ET) field in the August 2007 Version D.0 (the version currently adopted by HHS) to be treated as required. These changes would enable covered entities to clearly distinguish partial fills and fill numbers in the HIPAA retail pharmacy transactions, which would support and improve the Administration's and the health care industry's data collection and research efforts by, among other things, enabling policymakers, health care researchers, and other health care stakeholders that monitor the volume of opioids billed to health plans across the country to correctly identify partial fills in claims and prior authorization transactions. By facilitating accurate assessments, policymakers would be able to establish more effective controls and other measures to prevent inappropriate, or even illegal, prescribing of Schedule II drugs.

In this proposed rule, we would require the Quantity Prescribed (460–ET) field in the August 2007 Version D.0 to be treated as a required field where the transmission uses the August 2007 Version D.0 standard for a Schedule II drug for the following three transactions: (1) Health care claims or equivalent encounter information; (2) referral certification and authorization; and (3) coordination of benefits. We would modify the regulations at §§ 162.1102, 162.1302, and 162.1802 to apply the new requirements. To ensure that the proposed definition of ''Schedule II drugs'' mirrors the DEA definition, we would specify that the term has the same meaning as the definition of that term at 21 CFR 1308.12.

To be clear, our proposal *would not* modify the presently adopted Version D.0 in any way. Rather, it would require covered entities to treat a field in Version D.0 differently than the Version D.0 implementation specification requires. We further want to make clear that this proposal also *does not* propose to adopt the 2012 publication of Version D.0. There, the NCPDP changed the Quantity Prescribed (460–ET) field designation from ''not used'' to ''situational,'' and the situational circumstance is ''[r]equired for all Medicare Part D claims for drugs dispensed as Schedule II. May be used by trading partner agreement for claims for drugs dispensed as Schedule II only.'' By applying only to transactions involving Medicare Part D claims, the 2012 publication would not cover a huge swath of HIPAA covered entities and therefore we believe our proposal would yield much greater benefit than if we were to adopt that 2012 publication.

We also note that the NCPDP has issued a subsequent publication, the October 2017 Telecommunication Standard Implementation Guide, Version F2 (Version F2), where, among many other unrelated changes, it revised the situational circumstance to specify an even broader use of the Quantity Prescribed (460–ET) field as ''required only if the claim is for a controlled substance or for other products as required by law; otherwise, not available for use.'' We note that although the NCVHS on May 17, 2018 recommended adoption of Version F2 to the Secretary, we are not presently proposing to adopt it because, it would delay the ability for covered entities to accurately capture partial fills of Schedule II drugs. In addition, given the many other significant changes it would

[10] The Drug Enforcement Agency (DEA) indicated in a July 2017 letter to the NCPDP that it was currently promulgating proposed rulemaking to address the changes to 21 CFR 1306.13 (which concerns partial fills of prescriptions for Schedule II controlled substances) made by CARA.

[11] *https://www.hhs.gov/sites/default/files/opioid%20PHE%20Declaration-no-sig.pdf.*

[12] *https://www.hhs.gov/opioids/about-the-epidemic/index.html.*

require of covered entities, we believe it requires further evaluation. We are, however, committed to continuing to work with stakeholders to update as appropriate the HIPAA standards used for retail pharmacy transactions, and we are carefully considering the NCVHS's recommendation.

In addition, given the public health emergency caused by the opioid crisis and the urgent need to find ways to yield data and information to help combat it, we believe it is more appropriate for us to take this narrow, targeted approach that would not be overly burdensome to covered entities and can be accomplished quickly.

B. Compliance Date

We propose to revise § 162.1102 to reflect that covered entities would be required to be in compliance with the modification to the requirements for the use of Version D.0 in retail pharmacy transactions 180 days after the effective date of the final rule.

We believe these proposed requirements are a modification to an implementation specification, which is defined at 45 CFR 160.103 as a specific requirement or instruction for implementing a standard. Section 1175(b)(2) of the Act specifies that the compliance date for a modification to a standard or implementation specification cannot be sooner than 180 days after the date the modification is adopted. A modification is considered to be ''adopted'' on the date it becomes effective in the **Federal Register**, which in this case would be 60 days after its publication in the **Federal Register**. Because we believe it is important for this modification to be implemented as soon as statutorily permissible, we are proposing that covered entities would be required to comply with the modification 180 days after the date the modification is adopted in a final rule (to be clear, this would be 240 days following the date of publication of a final rule).

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We would consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we would respond to the comments in the preamble to that document.

V. Regulatory Impact Statement

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A Regulatory Impact Analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

Covered entities inconsistently reflect partial fills and fill numbers for Schedule II drugs in retail pharmacy transactions that utilize Version D.0 because Version D.0 does not permit covered entities to use the Quantity Prescribed (460–ET) field. As a result, stakeholders cannot reliably discern from transactions data when a Schedule II drug has been partially filled or refilled. To help understand the economic burden of this issue, we refer back to the previously mentioned 2012 OIG report which estimates that pharmacies inaccurately billed $25 million worth of partial fills as refills in 2009 paid by the Medicare Part D program. The OIG also expressed concerns about the possibility of these inappropriately dispensed Schedule II drugs being resold on the street.[13] As noted previously, CMS noted its concern that the OIG's strict interpretation of PDE data did not support the OIG's findings. CMS believed that the OIG's findings were based in part on a misinterpretation of Schedule II drug partial fills dispensed to LTC facility residents as refills, however, these findings are helpful as a starting point for this estimate. The White House Council of Economic Advisers estimates that opioids abuse exacted a cost of $504 billion in 2015 and contributed to a significant number of prescription and illicit drug overdose deaths.[14] Furthermore, and as previously discussed, the Secretary declared a public health emergency to combat the opioid crisis.

For this analysis we leverage the historical cost and benefit data from the study conducted to support the Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards proposed and final rules (73 FR 49742 and 74 FR 3295, 3296, respectively) (hereinafter referenced as the study). The impact analysis for this proposed rule utilizes the historical cost estimates derived from the study across covered entities. The final estimate provided an overall cost of $38 million to fully implement the then-new requirements of the 2007 Version D.0 for chain pharmacies (73 FR 49772). Since this is a very narrow, targeted modification that is limited to requiring covered entities to use the Quantity Prescribed (460–ET) field of the already adopted Version D.0, we anticipate the aggregate costs to be minimal. We expect minor system and implementation expenses, which would consist of modifying software configurations, updating business processes, and minimal personnel training. We further believe the investments to adopt this modification and update existing systems have the same cost variables as the adoption of this current D.0 version. We used these same considerations from the January 16, 2009 final rule (74 FR 3296), to formulate our assumptions on implementing system upgrades, and staff training costs. While it is difficult to determine aggregate costs across the industry, we believe system costs for this modification would require limited IT resources, training, and changes to business processes, and have estimated that this modification would cost between 1 to 5 percent of the original estimated cost, or between $380,000 and $1,900,000. The study also estimated a maximum upgrade fee cost of $1.08 million per year for independent pharmacies (73 FR 49772). This results

[13] Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills, *https://oig.hhs.gov/oei/reports/oei-02-09-00605.asp.*

[14] *https://www.whitehouse.gov/opioids/.*

in an estimated cost for this modification of $10,800 to $54,000 per year in service fees across all independent pharmacies.

Pharmacies would benefit from using the Quantity Prescribed (460–ET) field because it would facilitatefacilitate better monitoring of Schedule II drugs for over- or inappropriate prescribing. By virtue of this more robust data that we believe could be used to help avoid audits and incorrect payments, we, w estimate that large pharmacy chains could save up to $500,000 per year, while, while smaller chains could saveapproximately $100,000 per chain. Therefore, this could yield a total 10-year benefit of up to $10 million, and that does not account for the value of the time pharmacists and pharmacy technician staff who process these claims also might save.

We believe health plans and their associated pharmacy benefit managers (PBMs) would also incur minimal cost since most have existing hardware and software platforms capable of using this field with their current technology and networks. Thus, we expect this modification to have a similarly minimal cost impact of between 1 and 5 percent of the original implementation costs. The study originally estimated the total cost to implement the 2007 Version D.0 for plans and PBMs to be a maximum of $10.6 million for the industry (73 FR 49773). Thus, we estimate that the total cost for this modification for health plans and PBMs to be between $106,000 and $530,000.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A RIA must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule. We anticipate that the Quantity Prescribed (460–ET) field requirements would result in a reduction of overprescribing and inappropriate prescribing of Schedule II drugs, and also reinforce our commitment to lowering overall health care costs by reducing administrative burden and improving the quality of health care.

The RFA requires agencies to analyze options for regulatory relief of small entities if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate the great majority of retail pharmacies are small businesses as defined by the Small Business Administration's (SBA) definition of having revenues of less than $7.5 million to $38.5 million in any 1 year. The SBA defines a size threshold in terms of annual revenues for pharmacies as $27.5 million; we estimate that 95 percent of retail pharmacies have revenues below $27.5 million or are nonprofit organizations and are therefore considered small entities. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities because the Quantity Prescribed (460–ET) field requirements are a minor modification for covered entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we continue to define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. We believe this proposed rule would have no consequential effect on state, local, or tribal governments or on the private sector in excess of that threshold.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. We believe that since this proposed rule would not impose substantial costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017 and requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This proposed rule is expected to be an E.O. 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

We have assessed the anticipated costs and benefits of this proposed rule and estimate that it would reduce operating costs for standard pharmacy transactions, remove inefficiencies and ambiguities, and facilitate better monitoring of Schedule II drugs.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects

45 CFR Part 162

Administrative practice and procedures, electronic transactions, health facilities, health insurance, hospitals, incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 162 as set forth below:

PART 162—ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 162 continues to read as follows:

Authority: Secs. 1171 through 1180 of the Social Security Act (42 U.S.C. 1320d-1320d-9), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, sec. 105 of Pub. L. 110–233, 122 Stat. 881–922, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d-2(note), and secs. 1104 and 10109 of Pub. L. 111–148, 124 Stat. 146–154 and 915–917.

■ 2. Section 162.1102 is amended by adding paragraph (d) to read as follows:

§ 162.1102 Standards for health care claims or equivalent encounter information transaction.

* * * * *

(d) For the period on and after [DATE 180 DAYS AFTER THE AFTER PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], the Quantity Prescribed (460–ET) field must be treated as required where the

transmission meets both of the following:

(1) Is for a Schedule II drug, as defined and updated in 21 CFR 1308.12.

(2) Uses the standard identified in paragraph (b)(2)(i) of this section.

■ 3. Section 162.1302 is amended by adding paragraph (d) to read as follows:

§ 162.1302 Standards for referral certification and authorization transaction.

* * * * *

(d) For the period on and after [DATE 180 DAYS AFTER THE AFTER PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], the Quantity Prescribed (460–ET) field must be treated as required where the transmission meets both of the following:

(1) Is for a Schedule II drug, as defined and updated in 21 CFR 1308.12.

(2) Uses the standard identified in paragraph (b)(2)(i) of this section.

■ 4. Section 162.1802 is amended by adding paragraph (d) to read as follows:

§ 162.1802 Standards for coordination of benefits information transaction.

* * * * *

(d) For the period on and after [DATE 180 DAYS AFTER THE PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], the Quantity Prescribed (460–ET) field must be treated as required where the transmission meets both of the following:

(1) Is for a Schedule II drug, as defined and updated in 21 CFR 1308.12.

(2) Uses the standard identified in paragraph (b)(2)(i) of this section.

Dated: December 18, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–00554 Filed 1–30–19; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 18–314; FCC 18–165]

Further Streamlining FCC Rules Governing Satellite Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC) proposes to create a new, optional, unified license to include both space stations and earth stations operating in a geostationary-satellite orbit, fixed-satellite service satellite network; and to repeal or modify unnecessarily burdensome rules governing satellite services, such as annual reporting requirements.

DATES: Comments are due March 18, 2019. Reply comments are due April 16, 2019.

ADDRESSES: You may submit comments, identified by IB Docket No. 18–314, by any of the following methods:

- *FCC website: http://apps.fcc.gov/ecfs.* Follow the instructions for submitting comments.
- *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: Clay DeCell, 202–418–0803.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 18–165, adopted and released November 15, 2018. The full text of the NPRM is available online at *https://docs.fcc.gov/public/attachments/FCC-18-165A1.pdf.* The NPRM is also available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Comment Filing Requirements

Interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers.* Comments may be filed electronically using the internet by accessing the ECFS, *http://apps.fcc.gov/ecfs.*
- *Paper Filers.* Parties who file by paper must include an original and one copy of each filing.

Filings may 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 Street 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 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.
- *Persons with Disabilities.* To request materials in accessible formats for persons with disabilities (braille, large print, electronic files, audio format), or to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.), send an email to *FCC504@fcc.gov* or call 202–418–0530 (voice) or 202–418–0432 (TTY).

Ex Parte Presentations

Pursuant to 47 CFR 1.1200(a), this proceeding will 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 47 CFR

1.1206(b). In proceedings governed by 47 CFR 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.

Paperwork Reduction Act

This document contains proposed new and modified information collection requirements. 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 contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, 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.

Synopsis

Under the Commission's rules, satellite operators must follow separate application and authorization processes for the satellites and earth stations that make up their networks and have no option for a single, unified network license. In this Notice of Proposed Rulemaking, we propose to create a new, optional, unified license to include both space stations and earth stations operating in a geostationary-satellite orbit, fixed-satellite service (GSO FSS) satellite network. In addition, we propose to repeal or modify unnecessarily burdensome rules in Part 25 governing satellite services, such as annual reporting requirements. These proposals would greatly simplify the Commission's licensing and regulation of satellite systems.

Comprehensive Authorization for Space Station and Earth Station Operations

Background. The Commission issues separate licenses for earth stations and space stations in a satellite network based on the different application requirements in 47 CFR 25.114, for space stations, and 47 CFR 25.115, for earth stations. The goal of these decades-old, dual licensing paths is to provide for interference-free operation of both the ground component and space component of the satellite network. The satellite licensee, however, is often held responsible for the operation of both the space stations and earth stations in its satellite network. Internationally, this is done through coordination of the entire satellite network (earth stations and space stations) by the satellite operator. Domestically, conditions are often imposed in satellite licenses that require the satellite licensee to ensure compliance with earth station power limits as well. These earth station power limits derive from satellite network coordination, the Commission's ''two-degree spacing'' policies, or other sources. For example, GSO FSS satellite applicants in ''two-degree spacing'' bands certify that the earth stations in their networks will comply with certain prescribed routine power limits, unless other power levels are successfully coordinated with adjacent satellite operators. At the same time, earth station applicants in the same ''two-degree spacing'' bands must either demonstrate or certify compliance with these same routine power limits, unless otherwise coordinated by the satellite operator. Similarly, earth station licensees are often required to comply with any other, relevant conditions in the satellite license as well. These overlaps arise with respect to operations coordinated between satellite operators; however, site-specific coordination of earth stations with terrestrial stations are rarely included in space station authorizations and must be conducted at each specific earth station site selected. Observance of restrictions from terrestrial coordination is the responsibility of earth station licensees, who may or may not be owned or controlled by the space station operator.

Terrestrial operations, in contrast, may sometimes be performed under a single authorization for both base stations and user terminals. In its comments, EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (together, EchoStar) urge the Commission to adopt a similar, comprehensive authorization for satellite services. EchoStar argues that such a comprehensive authorization would offer satellite-service providers additional flexibility to configure their networks of satellites, gateway earth stations, and user terminals.

Proposal. We propose to adopt an optional licensing structure of a single network license for GSO FSS space stations and earth stations. In addition to providing greater flexibility, this could dramatically simplify how we authorize earth stations. Today, earth station applicants are required to submit information that duplicates, and indeed is more burdensome than, the technical information provided by satellite operators in space station applications. Under a single network license, these separate earth station requirements would be unnecessary.

A single satellite network license could also expedite the deployment of new earth stations, and therefore services to the public. In general, we anticipate that the satellite operator—particularly an operator with different ownership than the earth stations with which it communicates—would use contractual agreements with earth station end users to ensure it has the technical and administrative means to guarantee compliance with its network parameters and authorization, much as it does today. Because a separate earth station license would not be required, in cases where terrestrial coordination is unnecessary, a new end user may be able to begin providing service as soon as it had contracted with the satellite operator, without seeking additional Commission approval. Similarly, an earth station could begin operating under the network license of another satellite as soon as an agreement was reached with the new satellite operator, subject to any required coordination. Thus, if successfully implemented, satellite network licenses could eliminate the need for many, if not most, earth station applications, which make up the bulk of applications received in the satellite services today.

We expect that a comprehensive satellite network license would generally follow the application requirements for space stations and would be held by the space station operator. It would contain all authority necessary to operate space stations and blanket-licensed earth stations, and conditional authority to operate earth stations requiring individual coordination, subject to successful completion of the coordination. Other earth station requirements, such as build-out conditions, would be incorporated into the single license.

We propose initially to limit this unified license to GSO FSS space stations and earth stations in bands in which the Commission has adopted standard power limits under our two-degree spacing policy, excluding frequencies under 10 GHz at this time. In these bands, the Commission has adopted standard power limits on both uplink and downlink transmissions and has a well-defined sharing environment and licensing regime. We invite comment, however, on expanding such

a licensing structure to other bands and services, in particular bands subject to 47 CFR 25.136 in which the Commission has already adopted detailed sharing rules between the FSS and other services. We also request comment on the integration of earth station and space station requirements into a single license, including whether certain services, frequency bands, or types of operation would prove easier or more difficult to authorize under a single satellite network license than others. Specifically, we seek comment on the costs and benefits associated with different scopes for a unified license option. And while we are proposing a unified licensing structure, whereby one license would cover both space and earth stations, we invite comment on whether a similar approval process could be implemented for market access requests that include authority for multiple earth stations.

Specifically, we propose that under a unified license, the GSO FSS applicant would submit the space station application information required by 47 CFR 25.114 and 25.140. If the operator certified compliance with standard uplink power levels in 47 CFR 25.140, it would not need to provide any additional information on earth station performance or verified performance currently required by 47 CFR 25.115(a) or 25.132. The applicant would need to certify under 47 CFR 25.115(i) that the use of any contention protocol will be reasonable. Site coordination and other issues specific to the particular locations of earth stations would be completed and notified separately by the earth station end user, as described below.

A space station operator and licensee under a joint space station and earth station license would need to maintain sufficient control over all the operations under the license required of a Commission licensee pursuant to Commission precedent. As noted, we anticipate that this control could be exercised through contractual means where necessary, but we invite comment on the issues of control residing with the space station operator, and on what kinds of contractual provisions would be appropriate to address such issues. Similarly, we seek comment on whether any changes to our control provisions in 47 CFR 25.271 would be necessary to accommodate our unified license proposal. We also seek comment on whether, as an alternative or addition to the unified license proposal herein, we should maintain separate licenses for earth stations communicating with GSO FSS space stations, but permit such earth station applicants to certify that they will comply with the terms and conditions of the space station network with which the earth station will communicate as a substitute for filing the technical information about the proposed earth station operations currently required to be submitted by earth station applicants under Schedule B to the earth station application. We seek comment on the costs and benefits to both the Commission and applicants from this alternative proposal.

We also seek comment on creating a new application fee category in 47 CFR 1.1107 for unified space station/earth station licenses based on the fees for geostationary space station applications, and comment on the appropriate values for the various types of applications. The benefit of a new fee category would be to appropriately reflect the dual earth station and space station elements of the unified license. This new application fee category could include initial license applications, license modifications, license transfers, and requests for special temporary authority. Alternatively, we seek comment on applying the current space station application fees to unified license applications as well. In this regard, we expect that the majority of Commission staff review of a unified license application would concern the information currently provided in space station applications.

Some earth stations operate in bands shared with other users, such as terrestrial operators, and require site-based coordination to ensure successful operation. These earth station coordination agreements are currently submitted in individual, searchable earth station files. To maintain transparency and ease of access to site-specific earth station coordination information, we propose to require earth station end users to separately file this information with the Commission, as today is done in the context of a license application, rather than to have all earth station coordination agreements submitted in the single network license file. These filings would be made under a normal earth station call sign and file number in the International Bureau Filing System for ease of searchability; however, they would not constitute an application for authorization. Rather, these filings would demonstrate that the earth station has been successfully coordinated, and therefore can fulfill the coordination requirements in a unified, network license under which it wishes to operate. We anticipate that Commission staff would review the coordination filings for completeness and accuracy, and after a positive determination place the filings on public notice for comment under 47 CFR 25.151. After the comment period, the Commission would indicate its approval of the filings in the International Bureau Filing System before the earth station operations could commence under any unified network license, subject to the terms and restrictions of both the license and coordination agreements. This process for reviewing coordination filings is necessarily site-specific and would be conducted in substantially the same way as it is today in a license application; however, other elements of the earth station application that are today required and reviewed by Commission staff before public notice would not be necessary, lowering the overall burden on both earth station operators and Commission staff. We invite comment on this procedure and ways to simplify and streamline the submission and any review of these filings. More broadly, we seek comment on the costs of implementing unified space station and earth station license for both operators and the Commission, including administrative costs, and on the benefits of such a license for both the Commission and licensees.

To maintain the validity of its coordination filings, an earth station end user would be required to fulfill the buildout requirements for the type of earth station. This period is usually one year. In bands shared with other services, an earth station buildout requirement can prevent warehousing of spectrum to prevent deployment in other services. Other showings specific to the particular earth station location or configuration, such as antenna height restrictions under Part 17 or radiation hazard limits under Part 1, section I, could be submitted in an individual earth station file as well. Where only certifications are required, and are today made by the licensee under a blanket earth station license, we propose the satellite operator and joint licensee be made responsible for such certifications and for ensuring, through contractual or other means, that these requirements are met by earth stations communicating with its space station.

Build-Out Requirements for Certain Individually Licensed Earth Stations

The Spectrum Frontiers proceeding identified certain frequency bands for flexible wireless use, while at the same time allowing for the deployment of a limited number of earth stations that, under certain conditions, would be either entitled to protection from terrestrial stations (receive earth stations) or not required to protect

terrestrial stations (transmit earth stations). These individually licensed earth stations are expected to be used as gateway stations and not to serve individual consumers. Current satellite design contemplates the use of very narrow beams pointed to the locations where these gateway earth stations will be located. Therefore, certainty about these gateway locations is required early in the satellite design process.

Given that, there is a disconnect between the one-year earth station buildout requirement and the time allowed for a satellite to be launched and brought into operation (for instance, a geostationary satellite has to be operational five years from the grant of the authorization). Having a gateway earth station built within one year could mean that a significant investment would remain unused for as long as four years. Moreover, without a satellite to communicate with, this gateway earth station would not even be able to meet the buildout rule. Therefore, we propose to better align the buildout requirements for space stations and associated gateway earth stations to ensure certainty and allow a more efficient satellite design. We propose that earth stations authorized through 47 CFR 25.136 have a buildout requirement defined by the date the associated satellite becomes operational, up to five years for a GSO satellite or six years for an NGSO satellite if the satellite is put into operation at the end of its milestone period, but in any event no less than the one year period currently applicable. This means that, if the associated satellite is already in orbit or is launched within one year of the date of the earth station application, the one-year buildout requirement remains applicable to this earth station. We seek comment on this proposal.

Annual Reporting Requirements for Satellite Operators

Section 25.170 requires satellite operators to annually disclose any authorized satellites or spectrum unavailable for service, a contact point to resolve interference, and the construction progress of any authorized replacement satellites. EchoStar urges the Commission to repeal these annual reporting requirements as unnecessary burdens on satellite operators. While these requirements were recently consolidated and harmonized, our experience has been that staff do not make regular use of most of these reports. We further believe that the requested information often may be duplicative or unnecessary. We therefore propose to remove the annual reporting requirement for satellite operators, except to retain the requirement that satellite operators confirm yearly their point of contact information, which is necessary to resolve any interference disputes, and for continuing operations purposes. We propose, however, to move this requirement to an adjacent rule, 47 CFR 25.171, covering satellite points of contact. We seek comment on this proposal.

Out-of-Band Emissions

The out-of-band emissions rule in 47 CFR 25.202(f) was adopted in 1973 to limit unwanted emissions that may cause harmful interference to operators in adjacent bands. The limits, however, are outdated and have led to confusion among some operators. For example, some have apparently interpreted the attenuation schedule prescribed in 47 CFR 25.202(f) to take as a reference the in-band power spectral density of the emission, which would make a significant portion of the assigned frequency band unusable because it would require an abrupt 25 dB attenuation at band edge. We expect that updating this rule to conform to internationally harmonized standards would eliminate most such misinterpretations—misinterpretations which could otherwise encourage inefficient satellite designs or deter the construction and launch of some satellites altogether.

In place of this decades-old provision, therefore, we propose to adopt a clear, up to date international standard, Recommendation ITU–R SM.1541–6, ''Unwanted emissions in the out-of-band domain,'' which was developed with U.S. input. Rather than requiring an abrupt attenuation at band edge, this out-of-band mask provides for a smooth transition starting at band edge. We seek comment on this proposal. We believe this ITU Recommendation is reasonably available to interested parties because it is available free of charge on the ITU website, *https://www.itu.int/rec/R-REC-SM.1541-6-201508-I/en,* and would also be made available for inspection at Commission headquarters.

Dismissal of Applications

The Commission requires all applications under Part 25 to be substantially complete when filed. An application that is not substantially complete will be returned to the applicant under the rules without the ability to correct the substantial defects and maintain its original filing. EchoStar notes that space station applications are complex, and that under this policy errors in an application could cause it to be returned and lose its place in the first-come, first-served queue. EchoStar therefore suggests that we allow applicants to correct any errors or omissions within 60 days of a Commission request. EchoStar also proposes that applications be accepted for filing automatically within 30 days of filing, unless the Commission determines otherwise.

We invite comment on these suggestions, including any effect on our policy for ''major'' amendments under 47 CFR 25.116 that are considered as newly filed applications under the Commission's space station queue or processing round regimes. We also ask how proposals for cure periods can be crafted to prevent the filing of placeholder applications designed to reserve the position of a woefully incomplete application in the first-come, first-served queue. Should we specify minimum criteria for acceptance for filing? If so, what should they be?

Notification of Minor Earth Station Modifications

When an earth station operator makes certain minor modifications to its licensed earth station that do not increase the risk of interference, such as changes that do not increase power, add frequencies, or repoint the antenna beyond any coordinated range, the Commission requires only a notification of such changes within 30 days of the modification. In an ex parte filing, Iridium argues that such modifications within the scope of the authorization and described in 47 CFR 25.118(a)(4) should not even require a notification to the Commission because they do not impact other service providers. Similarly, Iridium asks that the Commission clarify that the addition of new transceiver and antenna combinations to an existing blanket earth station license do not require prior Commission notification when they meet the requirements currently listed in 47 CFR 25.118(a)(4).

We believe Iridium's proposed changes would streamline minor earth station changes that do not pose a risk of additional interference to other users, and therefore propose to implement them. However, we invite comment on whether such rule changes would have any impact on the reliability of information filed with the Commission in earth station applications.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by

the policies and rules proposed in this Notice. We request written public comments on this IRFA. Commenters must identify their comments as responses to the IRFA and must file the comments by the deadlines for comments on the Notice provided above in the **DATES** section. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) are being published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

The Notice of Proposed Rulemaking seeks comment on creating a new, streamlined license for both space stations and earth stations and other streamlining measures for the authorization of earth stations. It also proposes to remove the annual reporting requirements for satellite operators, updating the out-of-band emission limits for satellite operators, and other corrections in 47 CFR part 25.

B. Legal Basis

The proposed action is authorized under Sections 4(i), 11, 303, and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303, 316.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules May Apply

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 Small Business Administration (SBA).

Satellite Telecommunications. This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The NPRM proposes to remove the reporting requirements for satellite operators and on creating a new, streamlined network license for both satellites and earth stations, in addition to other streamlining measures for the licensing of earth stations. These would reduce paperwork costs for such satellite and earth station operators.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business, 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 rules 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 such small entities.''

The NPRM seeks comment on particular measures to streamline the licensing of earth stations, which would reduce economic impacts on small entities. It does not envision increasing the economic impacts on small entities. Specifically, the NPRM requests comment on eliminating the need for earth station operators, including small entities, to notify the Commission of certain minor modifications to their earth stations. The NPRM also seeks comment on relaxing the acceptability for filing standard for part 25 applications, including earth station applications. And it invites comment on a clearer, modern standard for out of band emissions, including those from earth stations. Other streamlining measures are also proposed, and comment is sought on ways to further reduce burdens in implementing the proposals in the NPRM.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Incorporation by Reference

In § 25.108, we propose to incorporate by reference Recommendation ITU–R SM.1541–6, ''Unwanted emissions in the out-of-band domain,'' from August 2015, which is available online for free at *https://www.itu.int/rec/R-REC-SM.1541-6-201508-I/en,* Copyright 2015, for use in § 25.202. This contains a standard for out-of-band emissions that we propose to require satellite and earth station licensees to comply with. In addition to being freely available online, this document would be made available for inspection at FCC Headquarters and it available for purchase from the International Telecommunications Union, Place des Nations, 1211 Geneva 20 Switzerland, *www.itu.int.* We therefore believe this material is reasonably available to interested parties.

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Earth stations, Incorporation by reference, Satellites.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Amend § 25.108 by adding paragraph (c)(10) to read as follows:

§ 25.108 Incorporation by reference.

* * * * *

(c) * * *

(10) Recommendation ITU–R SM.1541–6, ''Unwanted emissions in the out-of-band domain,'' August 2015, *https://www.itu.int/rec/R-REC-SM.1541-6-201508-I/en,* Copyright 2015. Incorporation by reference approved for § 25.202(f).

■ 3. Amend § 25.118 by

■ a. Removing paragraph (a)(4) and

■ b. Revising paragraph (b).

The revision reads as follows:

§ 25.118 Modifications not requiring prior authorization.

* * * * *

(b) Earth station modifications, notification not required. Notwithstanding paragraph (a) of this section:

(1) Equipment in an authorized earth station may be replaced without prior authorization and without notifying the Commission if the new equipment is electrically identical to the existing equipment.

(2) Licensees may make other changes to their authorized earth stations, including the addition of new transceiver/antenna combinations, without notifying the Commission, provided the modification does not involve:

(i) An increase in EIRP or EIRP density (either main lobe or off-axis);

(ii) Additional operating frequencies;

(iii) A change in polarization;

(iv) An increase in antenna height;

(v) Antenna repointing beyond any coordinated range; or

(vi) A change from the originally authorized coordinates of more than 1 second in latitude or longitude for stations operating in frequency bands shared with terrestrial systems or more than 10 seconds of latitude or longitude for stations operating in frequency bands not shared with terrestrial systems.

* * * * *

■ 4. Add § 25.123 to read as follows:

§ 25.123 Combined space station and earth station authorization

A single license may be issued that authorizes the operations of a GSO FSS space station and earth stations in a satellite network in the following bands:

10.95–11.2 GHz (space-to-Earth)
11.45–12.2 GHz (space-to-Earth)
13.75–14.5 GHz (Earth-to-space)
18.3–18.8 GHz (space-to-Earth)
19.7–20.2 GHz (space-to-Earth)
28.35–28.6 GHz (Earth-to-space)
29.25–30 GHz (Earth-to-space)

(a) An application for such a comprehensive network license must contain the information required by §§ 25.114 and 25.140 and must certify that earth stations accessing the network will comply with part 1, subpart I and part 17 of this chapter.

(b) An earth station seeking to operate in a band shared on an equal basis with terrestrial services and under a combined space station and earth station authorization must submit, in a separate earth station file in IBFS and under an earth station call sign, any coordination or other information required by § 25.203.

(c) An earth station operating under a combined space station and earth station authorization is not required to submit the antenna performance information specified in § 25.132.

■ 5. Amend § 25.133 by revising the second sentence of paragraph (a)(1) and adding paragraph (a)(3) to read as follows:

§ 25.133 Period of construction; certification of commencement of operation.

(a)(1) * * * Construction of the earth station must be completed and the station must be brought into operation within 12 months from the date of the license grant except as may be determined by the Commission for any particular application and except as provided in paragraph (a)(3) of this section.

* * * * *

(3) An earth station licensed under § 25.136 may have a buildout period associated with the buildout period of a communicating space station listed in the earth station application. The earth station must be brought into operation by the date the space station is brought into operation, as certified under § 25.173(b), or one year after the date of grant of the earth station license, whichever is longer.

* * * * *

■ 6. Amend § 25.151 by revising paragraphs (a)(10), (11), and (12) and adding paragraph (a)(13) to read as follows:

§ 25.151 Public Notice

(a) * * *

(10) The receipt of space station application information filed pursuant to § 25.110(b)(3)(iii);

(11) The receipt of notifications of non-routine transmission filed pursuant to § 25.140(d);

(12) The receipt of EPFD input data files from an NGSO FSS licensee or market access recipient, submitted pursuant to § 25.111(b) or § 25.146(c)(2); and

(13) The receipt of complete information under § 25.123.

§ 25.170 [Removed]

■ 7. Remove § 25.170.

■ 8. Revise § 25.171 to read as follows:

§ 25.171 Contact information reporting requirements.

If contact information filed in space station application or pursuant to § 25.170(b) or § 25.172(a)(1) changes, the operator must file corrected information electronically in the Commission's International Bureau Filing System (IBFS), in the ''Other Filings'' tab of the station's current authorization file. The operator must file the updated information within 10 days. In addition, satellite operators must confirm the contact information on June 30 of each year.

■ 9. Amend § 25.202 by revising paragraph (f) to read as follows:

§ 25.202 Frequencies, frequency tolerance, and emission limits.

* * * * *

(f) Unwanted emissions in the out-of-band domain. The mean power of an emission must be attenuated below the mean output power of the transmitter in accordance with Recommendation ITU–R SM.1541–6, ''Unwanted emissions in the out-of-band domain'' (incorporated by reference, § 25.108), except as provided for SDARS terrestrial repeaters and NGSO inter-satellite emissions in paragraphs (h) and (i) of this section.

* * * * *

[FR Doc. 2018–27972 Filed 1–30–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–383; RM–11822; DA 18–1267]

Television Broadcast Services; Cookeville and Franklin, Tennessee

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: At the request of ION Media License Company, LLC. (ION), licensee of television station WNPX–TV, channel 36, Cookeville, Tennessee (WNPX), the Commission is proposing to amend the Post-Transition Table of DTV Allotments by changing WNPX's community of license from Cookeville to Franklin, Tennessee, pursuant to section 1.420(i) of the Commission's rules. ION asserts that the proposed reallotment is consistent with the Commission's second allotment priority by providing Franklin with its first local transmission service. ION also asserts that the proposed reallotment will not deprive Cookeville of its sole broadcast station because it will continue to be served by station WCTE(TV), licensed to Upper Cumberland Broadcast Council, on channel *22 at Cookeville.

DATES: Comments must be filed on or before February 15, 2019 and reply comments on or before February 25, 2019.

ADDRESSES: Federal Communications Commission, Office of the Secretary,

445 12th Street SW, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: ION Media License Company, LLC., c/o Terri McGalliard, 601 Clearwater Park Road, West Palm Beach, Florida 33401.

FOR FURTHER INFORMATION CONTACT: Darren Fernandez, Media Bureau, at *Darren.Fernandez@fcc.gov;* or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 18–383; RM–11822; DA 18–1267, adopted December 19, 2018, and released December 19, 2018. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW, Washington, DC 20554, or online at *http://apps.fcc.gov/ecfs/.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a *Notice of Proposed Rulemaking* is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See § 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—Radio Broadcast Service

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

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 (Amended)

§ 73.622(i) is amended as follows:

■ 2. The Post-Transition Table of DTV Allotments under Tennessee, by removing Cookeville, channel 36, and adding, in alphabetical order, Franklin, channel 26.

[FR Doc. 2019–00606 Filed 1–30–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2018–0105; 4500030113]

RIN 1018–BD85

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the West Coast Distinct Population Segment of Fisher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reopening the comment period on our October 7, 2014, proposed rule to list the West Coast distinct population segment (DPS) of fisher (*Pekania pennanti*) as a threatened species. We are reopening the comment period for 30 days to give all interested parties further opportunity to comment on the proposed rule. Comments previously submitted need not be resubmitted as they are already incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period for the proposed rule that published on October 7, 2014, at 79 FR 60419 is reopened. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be submitted by 11:59 p.m. Eastern Time March 4, 2019.

ADDRESSES: *Availability of documents:* The proposed rule is available on *http://www.regulations.gov* in the original docket at Docket No. FWS–R8–ES–2014–0041 and on our website at *https://www.fws.gov/Yreka.* Comments and materials we received during the previous comment periods, as well as supporting documentation we used in preparing the proposed rule, are also available for public inspection in that docket at *http://www.regulations.gov.* In addition, all comments, materials, and documentation that we considered regarding the proposed rule are available for public inspection, by appointment, during normal business hours, at the Yreka Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, CA 96097; telephone 530–842–5763; facsimile 530–842–4517. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339.

Comment submission: You may submit written comments on the proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2018–0105, which is the docket number for this new stage of the rulemaking action. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: Docket No. FWS–R8–ES–2018–0105; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. See Information Requested, below, for more information on submitting comments on the proposed rule.

FOR FURTHER INFORMATION CONTACT: Jenny Ericson, Field Supervisor, U.S. Fish and Wildlife Service, Yreka Fish and Wildlife Office, 1829 South Oregon Street, Yreka, CA 96097; telephone 530–842–5763; facsimile 530–842–4517. Persons who use TDD may call the FRS at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2014, we published in the **Federal Register** a proposed rule (79 FR 60419) to list the West Coast DPS of fisher as a threatened species under the

Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). On April 18, 2016, we published a document in the **Federal Register** withdrawing the proposed rule to list the West Coast DPS of fisher (81 FR 22710), concluding that the stressors acting upon the DPS were not of sufficient imminence, intensity, or magnitude to indicate that they were singly or cumulatively resulting in significant impacts at either the population or rangewide scales.

On October 19, 2016, the Center for Biological Diversity, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, and Sierra Forest Legacy filed a complaint for declaratory and injunctive relief, alleging that our determination on the West Coast DPS of fisher violated the Act. By Order Re: Summary Judgment issued on September 21, 2018, the District Court for the Northern District of California vacated the listing withdrawal and remanded the Service's final determination for reconsideration. The Court's amended order directs the Service to prepare a new determination by September 21, 2019.

Additional information on Federal actions concerning the West Coast DPS of fisher prior to October 7, 2014, is outlined in the proposed listing rule (79 FR 60419).

Information Requested

We will accept written comments and information during this reopened comment period on our proposed listing for the West Coast DPS of fisher that was published in the **Federal Register** on October 7, 2014 (79 FR 60419). We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal be as accurate as possible and based on the best available scientific and commercial data.

We are particularly interested in new information and comments regarding:

(1) Information related to anticoagulant rodenticides and other toxicants, including law enforcement information and trend data.

(2) Information regarding population trend studies or data for the West Coast DPS of fisher, including information regarding areas that have been surveyed compared to areas that have not been surveyed, as well as all positive and negative survey results to help us assess distribution and population trends.

(3) Information regarding the threat of wildfire, including studies or information pertaining to current and future trends in wildfire frequency and severity, as well as information pertaining to the immediate response of fishers to post-fire landscapes in the West Coast DPS of fisher.

(4) Information regarding any threats related to small population size and isolation relevant to the West Coast DPS of fisher (*e.g.,* low reproductive capacity, inbreeding depression, demographic and environmental stochasticity).

(5) Information regarding any effects of ongoing and widespread tree mortality in the Sierra Nevada range on the West Coast DPS of fisher.

(6) Information regarding any conservation efforts designed to benefit the West Coast DPS of fisher that have been planned or implemented since the October 7, 2014, proposed rule.

As indicated under **SUMMARY**, above, if you previously submitted comments or information on the October 7, 2014, proposed rule, please do not resubmit them. We have incorporated previously submitted comments into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning the proposed listing will take into consideration all written comments and any additional information we receive, including any new scientific and commercial information available since April 18, 2016 (81 FR 22710).

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 7, 2018.

Margaret E. Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–28408 Filed 1–30–19; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 84, No. 21
Thursday, January 31, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LP–18–0068]

Notice of Request for Extension of a Currently Approved Information Collection for Commodities Covered by the Livestock Mandatory Reporting Act of 1999

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension of the currently approved information collection used to compile and generate cattle, swine, lamb, boxed beef, and wholesale pork Market News reports under the Livestock Mandatory Reporting Act of 1999 (1999 Act) (OMB 0581–0186).

DATES: Comments received by April 1, 2019 will be considered.

Additional Information or Comments: Interested persons are invited to submit comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to Sam Jones-Ellard, Assistant to the Director; Livestock, Poultry, and Grain Market News Division; Livestock and Poultry Program; Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2619–S, STOP 0252; Washington, DC 20250–0252; Telephone (812) 240–0694; or email *Samuel.Jones@usda.gov.* All comments should reference the docket number (AMS–LP–18–0068), the date, and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Sam Jones-Ellard at the above physical address, by telephone (812) 240–0694, or by email at *Samuel.Jones@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Livestock Mandatory Reporting Act of 1999.

OMB Number: 0581–0186.

Expiration Date of Approval: 07–31–2019.

Type of Request: Request for extension of a currently approved information collection.

Abstract: The 1999 Act was enacted into law on October 22, 1999, [Pub. L. 106–78; 113 Stat. 1188; 7 U.S.C. 1635–1636(i)] as an amendment to the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). On April 2, 2001, the Agricultural Marketing Service (AMS); Livestock and Poultry Program (LP); Livestock, Poultry, and Grain Market News Division (LPGMN) implemented the Livestock Mandatory Reporting (LMR) program as required by the 1999 Act. The purpose was to establish a program of easily understood information regarding the marketing of cattle, swine, lambs, and livestock products; improve the price and supply reporting services of the United States Department of Agriculture (USDA); and encourage competition in the marketplace for livestock and livestock products. The LMR regulations (7 CFR part 59) set the requirements for certain packers and importers to submit purchase and sales information of livestock and livestock products to meet this purpose.

The statutory authority for the program lapsed on September 30, 2005. In October 2006, Congress passed the Livestock Mandatory Reporting Reauthorization Act (2006 Reauthorization Act) [Pub. L. 109–296]. The 2006 Reauthorization Act re-established the regulatory authority for the continued operation of LMR through September 30, 2010, and separated the reporting requirements for sows and boars from barrows and gilts, among other changes. On July 15, 2008, the LMR final rule became effective (73 FR 28606, May 16, 2008).

On September 28, 2010, Congress passed the Mandatory Price Reporting Act of 2010 (2010 Reauthorization Act) [Pub. L. 111–239]. The 2010 Reauthorization Act reauthorized LMR for an additional 5 years through September 30, 2015, and required the addition of wholesale pork through negotiated rulemaking. On January 7, 2013, the LMR final rule became effective (77 FR 50561, August 22, 2012).

The Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) [Pub. L. 114–54], enacted on September 30, 2015, reauthorized the LMR program for an additional 5 years through September 30, 2020, and amended certain lamb and swine reporting requirements. For lamb, the definitions of a packer and importer were modified to lower the reporting thresholds of each, from a processing average of 75,000 lambs to 35,000 lambs, and from an import average of at least 2,500 metric tons of lamb meat products to an average of 1,000 metric tons of lamb meat. On May 31, 2016, a direct final rule to implement these reporting changes became effective (*81 FR 10057, February 29, 2016*). For swine, the 2015 Reauthorization Act added a definition and reporting requirements for negotiated formula and late day purchases. On October 11, 2016, a final rule became effective (*81 FR 52969, August 11, 2016*) to implement these changes as well as a lamb reporting change requested by industry stakeholders amending the term ''packer-owned lambs'' and requiring packers to report lambs owned by a packer for at least 28 days immediately before slaughter.

The reports generated by the 1999 Act are used by other Government agencies to evaluate market conditions and calculate price levels, including USDA's Economic Research Service and World Agricultural Outlook Board. Economists at most major agricultural colleges and universities use the reports to make short and long-term market projections. Also, the Government is a large purchaser of livestock related products. A system to monitor the collection and reporting of data therefore is needed.

In order to comply with the 1999 Act's goal of encouraging competition in the marketplace for livestock and livestock products, Section 251 of the Act directs USDA to make available to the public information and statistics obtained from, or submitted by, respondents covered by the Act in a

manner that ensures that the confidentiality of the reporting entities is preserved. AMS is in the best position to provide this service.

Since the last information collection renewal, the AMS Livestock, Poultry, and Seed Program reorganized to form the AMS Livestock and Poultry Program. The forms associated with this information collection reflect this organizational change.

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.16 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 116 respondents.

Estimated Number of Responses: 135,356 responses.

Estimated Number of Responses per Respondent: 1,167 responses *(rounded).*

Estimated Total Annual Burden on Respondents: 21,712 hours (*rounded*).

Comments are invited 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, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 26, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–00548 Filed 1–30–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

[OMB Control Number: 0607–1007]

Proposed Change to Existing Approved Collection; Comment Request; 2020 Census New Construction Program; Expiration Date: 12-31-2021

AGENCY: U.S. Census Bureau.

ACTION: Notice of schedule change.

SUMMARY: This document constitutes a notice of intent to provide a 30-day comment period on schedule changes to the approved information collection for the 2020 Census New Construction Program. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

SUPPLEMENTARY INFORMATION: The U.S. Census Bureau is issuing this notice to inform the public of two schedule changes associated with the notice for public comment, titled ''2020 Census New Construction Program,'' published in the **Federal Register** on October 5, 2018 (Vol. 83, No. 194, pp. 50332–50334).

The following highlights the proposed revisions and the reasons:

1. *Publication of the list of governments eligible for participation in the New Construction Program by fall 2018 (p. 50333):* The Census Bureau will publish the list of governments eligible for participation in the New Construction Program in early 2019, instead of fall 2018. The Census Bureau made the change to conduct additional quality control prior to publishing the list. This change does not affect the respondents who are eligible to participate in the New Construction Program.

2. *Registration Deadline—Invitation Phase (p. 50334):* The Census Bureau is rescheduling the registration deadline from what was previously stated in the **Federal Register** on October 5, 2018 (Vol. 83, No. 194, pp. 50332–50334). The registration deadline was moved from July 19, 2019 to June 14, 2019 to provide the Census Bureau adequate time to conduct quality control of the registered universe and to prepare materials prior to the participation phase in September 2019. During the first week of April 2019, the Census Bureau will invite respondents to register online or by mail, with registration responses due by June 14, 2019. Given the average response time per respondent of one hour for the invitation phase, the proposed change is not anticipated to have an impact on a respondent's ability to reply during the proposed time frame.

There are no other proposed changes to the 2020 Census New Construction Program.

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 PRA Lead Officer, Office of the Chief Information Officer, Department of Commerce.

[FR Doc. 2019–00524 Filed 1–30–19; 8:45 am]

BILLING CODE 3510–07–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0002]

Request for Information Regarding Consumer Credit Card Market

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: The Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or Act) requires the Bureau of Consumer Financial Protection (Bureau) to conduct a review (Review) of the consumer credit card market, within the limits of its existing resources available for reporting purposes. In connection with conducting that Review, and in accordance with the Act, the Bureau is soliciting information from the public about a number of aspects of the consumer credit card market as described further below.

DATES: Comments must be submitted on or before May 1, 2019 to be assured of consideration.

ADDRESSES: You may submit responsive information and other comments, identified by the document title and Docket No. CFPB–2019–0002, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include the document title and Docket No. CFPB–2019–0002 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: All submissions should include the agency name and docket

number for this proposal. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Wei Zhang, Credit Card Program Manager, Division of Research, Markets, and Regulations, at (202) 435–7700, or *wei.zhang@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

Authority: 15 U.S.C. 1616(a), (b).

SUPPLEMENTARY INFORMATION: Section 502(a) of the CARD Act [1] requires the Bureau to conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market every two years. To inform that review, section 502(b) instructs the Bureau to seek public comment.[2]

The Bureau's first such review was published in October 2013; the Bureau's second such review was published in December 2015; the Bureau's third such review was published in December 2017.[3] To inform the Bureau's next review, the Bureau hereby invites members of the public, including consumers, credit card issuers, industry analysts, consumer groups, and other interested persons to submit information and other comments relevant to the issues expressly identified in section 2 below, as well as any information they believe is relevant to a review of the credit card market.

1. Background: The CARD Act

The CARD Act was signed into law in May 2009.[4] Passage of the Act was expressly intended to ''establish fair and transparent practices related to the extension of credit'' in the credit card market.[5] To achieve these agreed-upon purposes, the Act changed the requirements applicable to credit card practices in a number of significant respects.[6]

2. Issues on Which the Bureau Seeks Public Comment for Its Review

In connection with its pending Review, the Bureau seeks information from members of the public about how the credit card market is functioning. The Bureau seeks comments on the experiences of consumers and providers in the credit card market and on the overall health of the credit card market, as outlined in section 502(a) and in (a) through (g) below. As noted above, while the Bureau identifies specific topics of interest below, the Bureau wants to be alerted to and understand the information that consumers, credit card issuers, industry analysts, consumer groups, and other interested persons believe is most relevant to the Bureau's review of the credit card market, so this list of subjects should not be viewed as exhaustive. Commenters are encouraged to address any other aspects of the consumer credit card market that they consider would be of interest or concern to the Bureau.

Please feel free to comment generally and/or respond to any or all of the questions below but please indicate in your comments on which topic areas or questions you are commenting:

(a) The Terms of Credit Card Agreements and the Practices of Credit Card Issuers

How have the substantive terms and conditions of credit card agreements or the length and complexity of such agreements changed over the past two years?

How have issuers changed their pricing, marketing, underwriting, or other practices?

How are the terms of, and practices related to, major supplementary credit card features (such as credit card rewards, deferred interest promotions, balances transfers, and cash advances) evolving?

How have practices related to collecting on delinquent and charged-off credit card debt changed over the past two years?

Has the use of electronic communication (*e.g.,* email or SMS) by creditors and debt collectors in connection with credit card debt grown or otherwise evolved?

How are the practices of for-profit debt settlement companies changing and what trends are occurring in the debt settlement industry? How are creditors and non-profit credit counseling agencies responding to these changes and trends?

(b) The Effectiveness of Disclosure of Terms, Fees, and Other Expenses of Credit Card Plans

How effective are current disclosures of rates, fees, and other cost terms of credit card accounts in conveying to consumers the costs of credit card plans?

What further improvements in disclosure, if any, would benefit consumers and what costs would card issuers or others incur in providing such disclosures?

How well are current credit card disclosure rules and practices adapted to the digital environment? What adaptations to credit card disclosure regimes in the digital environment would better serve consumers or reduce industry compliance burden?

(c) The Adequacy of Protections Against Unfair or Deceptive Acts or Practices Relating to Credit Card Plans

What unfair, deceptive, or abusive acts and practices exist in the credit card market? How prevalent are these acts and practices and what effect do they have? How might any such conduct be prevented and at what cost?

(d) The Cost and Availability of Consumer Credit Cards

How have the cost and availability of consumer credit cards (including with respect to non-prime borrowers) changed since the Bureau reported on the credit card market in 2017? What is responsible for changes (or absence of changes) in cost and availability? Has the impact of the CARD Act on cost and availability changed over the past two years?

How, if at all, are the characteristics of consumers with lower credit scores changing? How are groups of consumers in different score tiers faring in the market? How do other factors relating to consumer demographics or financial

[1] *See* 15 U.S.C. 1616(a).

[2] *See* 15 U.S.C. 1616(b).

[3] CARD Act Report, *available at http://files.consumerfinance.gov/f/201309_cfpb_card-act-report.pdf;* The Consumer Credit Card Market, *available at http://files.consumerfinance.gov/f/201512_cfpb_report-the-consumer-credit-card-market.pdf;* The Consumer Credit Card Market, *available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2017.pdf.*

[4] The CARD Act's provisions took effect in three stages: August 2009, February 2010, and October 2011.

[5] Public Law 111–24, 123 Stat. 1734 (2009).

[6] *See* CARD Act Report, pp. 10–13, *available at http://files.consumerfinance.gov/f/201309_cfpb_card-act-report.pdf.*

lives affect consumers' ability to successfully obtain and use card credit?

(e) The Safety and Soundness of Credit Card Issuers

How is the credit cycle evolving? What, if any, safety and soundness risks are present or growing in this market, and which entities are disproportionately affected by these risks? How, if at all, do these safety and soundness risks to entities relate to long-term indebtedness on the part of some consumers, or changes in consumers' ability to manage their debts? Has the impact of the CARD Act on safety and soundness changed over the past two years?

(f) The Use of Risk-Based Pricing for Consumer Credit Cards

How has the use of risk-based pricing for consumer credit cards changed since the Bureau reported on the credit card market in 2017? What has driven those changes or lack of changes? Has the impact of the CARD Act on risk-based pricing changed over the past two years?

How have CARD Act provisions relating to risk-based pricing impacted (positively or negatively) the evolution of practices in this market?

(g) Consumer Credit Card Product Innovation

How has credit card product innovation changed since the Bureau reported on the credit card market in 2017? What has driven those changes or lack of changes? Has the impact of the CARD Act on product innovation changed over the past two years?

How have broader innovations in finance, such as (but not limited to) new products and entrants, evolving digital tools, greater availability of and new applications for consumer data, and new technological tools (like machine learning), impacted the consumer credit card market, either directly or indirectly? In what ways do CARD Act provisions encourage or discourage innovation? In what ways do innovations increase or decrease the impact of certain CARD Act provisions, or change the nature of those impacts?

Dated: December 21, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–00487 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0025]

Disclosure of Loan-Level HMDA Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final policy guidance.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing final policy guidance describing modifications that the Bureau intends to apply to the loan-level data that financial institutions report under the Home Mortgage Disclosure Act (HMDA) and Regulation C before the data is disclosed to the public. This final policy guidance applies to HMDA data compiled by financial institutions in or after 2018 and made available to the public by the Bureau beginning in 2019.

DATES: The Bureau released this final policy guidance on its website on December 21, 2018.

FOR FURTHER INFORMATION CONTACT: Benjamin Cady and David Jacobs, Counsels; Laura Stack, Senior Counsel, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/*. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary

HMDA requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. HMDA is implemented by Regulation C, 12 CFR part 1003. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended HMDA and transferred HMDA rulemaking authority and other functions from the Board of Governors of the Federal Reserve System (Board) to the Bureau. Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. In 2015, the Bureau published a final rule amending Regulation C (2015 HMDA Final Rule) to implement the Dodd-Frank Act amendments to HMDA and make other changes, including adding a number of new data points. Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018, and apply to data financial institutions collect beginning in 2018 and report beginning in 2019. With respect to the public disclosure of HMDA data, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. On September 25, 2017, the Bureau published proposed policy guidance that described the Bureau's balancing test and how the Bureau proposed to apply it to the loan-level HMDA data made available to the public.[1]

After considering the comments the Bureau received on the proposal, the Bureau is publishing this final policy guidance describing the loan-level HMDA data it intends to make available to the public, including modifications to be applied to the data. The Bureau intends to make these modifications to data financial institutions collected in 2018 when the Bureau discloses that data in 2019. The Bureau is making these determinations based upon the information currently available to it, including the comments received on the proposal, with respect to the risks and benefits associated with the disclosure of loan-level HMDA data. The Bureau intends to commence a rulemaking in the spring of 2019 that will enable it to identify more definitively modifications to the data that the Bureau determines to be appropriate under the balancing test and incorporate these modifications into a legislative rule. The rulemaking will reconsider the determinations reflected in this final policy guidance based upon the Bureau's experience administering the final policy guidance in 2019 and on a new rulemaking record, including data concerning the privacy risks posed by the disclosure of the HMDA data and the benefits of such disclosure in light of HMDA's purposes.

In developing this final policy guidance, the Bureau consulted with the prudential regulators (the Board, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)); the Department of Housing and Urban Development (HUD); and the Federal Housing Finance Agency (FHFA).

For the reasons described below and in the proposed policy guidance,[2] the Bureau is modifying its proposed policy guidance to change the proposed

[1] Disclosure of Loan-Level HMDA Data, 82 FR 44586 (Sept. 25, 2017) (hereinafter Proposed Policy Guidance).

[2] *See id.* at 44596–44610.

treatment of the following data fields: (1) The ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision; (2) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan; and (3) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs.

Pursuant to this final policy guidance, the Bureau intends to disclose loan-level HMDA data reported under Regulation C with the following modifications to the data: First, the Bureau intends to modify the public loan-level HMDA data to exclude: (1) The universal loan identifier or non-universal loan identifier; (2) the date the application was received or the date shown on the application form; (3) the date of action taken by the financial institution on a covered loan or application; (4) the address of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan; (5) the credit score or scores relied on in making the credit decision; (6) the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator; and (7) the result generated by the automated underwriting system used by the financial institution to evaluate the application. The Bureau also intends to exclude free-form text fields used to report the following data: (1) Applicant or borrower race; (2) applicant or borrower ethnicity; (3) the name and version of the credit scoring model used; (4) the principal reason or reasons the financial institution denied the application, if applicable; and (5) the automated underwriting system name.

Second, the Bureau intends to modify the public loan-level HMDA data to reduce the precision of most of the values reported for the following data fields. With respect to the amount of the loan or the amount applied for, the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls. The Bureau also intends to indicate whether the reported value exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination, as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2). With respect to the age of an applicant or borrower, the Bureau intends to bin reported values into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74; bottom-code reported values under 25; top-code reported values over 74; and indicate whether the reported value is 62 or higher.[3] With respect to the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision, the Bureau intends to disclose without modification reported values greater than or equal to 36 percent and less than 50 percent. The Bureau also intends to bin reported values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent; bottom-code reported values under 20 percent; and top-code reported values of 60 percent or higher. With respect to the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls. With respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, the Bureau intends to bin reported values into the following ranges: 5 to 24; 25 to 49; 50 to 99; 100 to 149; and 150 and over. And with respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs, the Bureau intends to disclose reported values as a percentage, rounded to the nearest whole number, of the value reported for the total number of individual dwelling units related to the property securing the covered loan.

This final policy guidance is exempt from notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553(b), and is non-binding. As previously noted, the Bureau believes that it is beneficial to commence a separate notice and comment legislative rulemaking under the APA to consider and adopt a more definitive approach to disclosing HMDA data to the public in future years. The Bureau will commence such a rulemaking in May 2019.

[3] Binning, sometimes known as recoding or interval recoding, allows data to be shown clustered into ranges rather than as precise values. Top- and bottom-coding mask any value that is above or below a certain threshold.

II. Background

A. HMDA's Purposes and the Public Disclosure of HMDA Data

HMDA requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. The home mortgage market is the country's largest market for consumer financial products and services, with $10 trillion in mortgage debt outstanding.[4] Homeownership is a critical source of wealth-building for families and communities. As of 2016, 48 million consumers had a mortgage, representing 64 percent of all owner-occupied homes.[5]

HMDA is implemented by Regulation C, 12 CFR part 1003. HMDA identifies its purposes as providing the public and public officials with sufficient information to enable them to determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[6] In 1989, following amendments to HMDA, the Board recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[7] Today, HMDA data are the preeminent data source that regulators, researchers, economists, industry, and advocates use to achieve HMDA's purposes and to analyze the mortgage market.

Public disclosure of HMDA data is central to the achievement of HMDA's purposes. Since HMDA's enactment in 1975, the data that financial institutions are required to disclose under HMDA and Regulation C have been expanded; public access to HMDA data has increased; and the formats in which HMDA data have been disclosed have evolved. As enacted and implemented

[4] FRED Economic Data, ''Mortgage Debt Outstanding by Type of Property: One- to Four-Family Residences (MDOTP1T4FR),'' Fed. Res. Bank of St. Louis, Bd. of Govs. of the Fed. Res. Sys., *https://fred.stlouisfed.org/series/MDOTP1T4FR* (last updated Sept. 24, 2018).

[5] U.S. Census Bureau, ''Selected Housing Characteristics: 2012–2016 American Community Survey 5-Year Estimates,'' *https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_5YR/DP04/0100000US* (last visited Dec. 3, 2018).

[6] 12 U.S.C. 2801(b).

[7] *See* Home Mortgage Disclosure, 54 FR 51356, 51357 (Dec. 15, 1989) (recognizing the purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes in light of the 1989 amendments to HMDA, which mandated the reporting of the race, sex, and income of loan applicants).

in Regulation C, HMDA required covered financial institutions to make available to the public at their home and branch offices a ''disclosure statement'' reflecting aggregates of certain mortgage loan data.[8] In 1980, Congress amended HMDA section 304 to require that the Federal Financial Institutions Examination Council (FFIEC) implement a system to increase public access to the data required to be disclosed under the statute, including a ''central depository of data'' in each metropolitan statistical area (MSA). The 1980 HMDA amendments also required the FFIEC to compile annually, for each MSA, aggregate data by census tract for all financial institutions required to disclose data under HMDA. The 1980 amendments further required the FFIEC to produce tables indicating, for each MSA, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.[9]

In 1989, Congress amended HMDA to require that financial institutions collect, report, and disclose data concerning the race, sex, and income of applicants and borrowers, as well as data on loan applications, in addition to originations and purchases.[10] In implementing these amendments in Regulation C, the Board required financial institutions to report HMDA data to Federal regulators on a loan-by-loan and application-by-application basis using the ''loan/application register'' format.[11] In 1990, the FFIEC issued a notice announcing that it would make all reported HMDA data available to the public in a loan-level format, after deleting three fields to protect applicant and borrower privacy: application or loan number, application date, and action taken date.[12] The FFIEC stated that it believed public disclosure of the reported loan-level HMDA data to be ''consistent with the congressional intent to maximize the utilization of lending data.'' [13] The FFIEC first disclosed the reported loan-level HMDA data to the public in October 1991.

In 1992, Congress amended HMDA to add section 304(j), which required that each financial institution make available to the public its ''loan application register information'' for each year as early as March 31 of the succeeding year, as required under regulations prescribed by the Board.[14] The Board implemented this amendment by requiring that financial institutions make their ''modified'' loan/application registers available to the public after deleting the same three fields deleted from the loan-level HMDA data disclosed by the FFIEC.[15]

B. The Dodd-Frank Act and Amendments to HMDA and Regulation C

In 2010, the Dodd-Frank Act amended HMDA and transferred HMDA rulemaking authority and other functions from the Board to the Bureau.[16] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. The Dodd-Frank Act amendments to HMDA also added new section 304(h)(1)(E), which directs the Bureau to develop regulations, in consultation with the agencies identified in section 304(h)(2),[17] that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.'' Section 304(h)(3)(B), also added by the Dodd-Frank Act, directs the Bureau to ''prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of [HMDA], in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA].'' [18]

On October 28, 2015, the Bureau published the 2015 HMDA Final Rule to implement the Dodd-Frank Act amendments and make other changes, including adding a number of new data points.[19] Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018, and apply to data financial institutions collect beginning in 2018 and report beginning in 2019. The 2015 HMDA Final Rule addressed the public disclosure of HMDA data in two ways.

First, the 2015 HMDA Final Rule shifted public disclosure of HMDA data entirely to the agencies. Beginning with HMDA data compiled in 2017, financial institutions were no longer required to provide their modified loan/application registers and disclosure statements directly to the public. Instead, they were required only to provide a notice advising members of the public seeking their data that the data may be obtained on the Bureau's website. In addition to reducing burden on financial institutions, this shift of responsibility to the agencies eliminated risks to financial institutions associated with errors in preparing their modified loan/application registers that could result in the unintended disclosure of data. This shift of responsibility also permitted the Bureau to consider modifications to protect applicant and borrower privacy that preserve data utility but that may be burdensome for financial institutions to implement. Finally, this shift of responsibility allowed for easier adjustment of modifications as privacy risks and potential uses of HMDA data evolve.

Second, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the release of the unmodified data creates risks to applicant and borrower privacy

[8] Home Mortgage Disclosure Act of 1975, Public Law 94–200, section 304, 89 Stat. 1124, 1125–28 (Dec. 31, 1975); 12 CFR 203.5(a)(1) (effective June 28, 1976).

[9] Housing and Community Development Act of 1980, Public Law 96–399, section 340, 94 Stat. 1614, 1657–59 (1980).

[10] Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), Public Law 101–73, section 1211, 103 Stat. 183, 524–26 (1989).

[11] 54 FR 51356, 51361 (Dec. 15, 1989).

[12] Home Mortgage Disclosure Act; Disclosure Statements and Aggregate MSA Reports; Availability of Data, 55 FR 27886, 27888 (July 6, 1990).

[13] *Id.*

[14] Housing and Community Development Act, Public Law 102–550, section 932, 106 Stat. 3672, 3889–91 (1992).

[15] 12 CFR 203.5(a)–(e) (effective Mar. 1, 1993).

[16] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–2101 (2010).

[17] These agencies are the prudential regulators—the Board, the FDIC, the NCUA, and the OCC—and HUD. Together with the Bureau, these agencies are referred to herein as ''the agencies.''

[18] Section 304(h)(3)(A) provides that a modification under section 304(h)(1)(E) shall apply to information concerning ''(i) credit score data . . . in a manner that is consistent with the purpose described in paragraph (1)(E); and (ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.'' 12 U.S.C. 2803(h)(3)(A).

[19] Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 69567 (Nov. 10, 2015) (making technical corrections).

interests that are not justified by the benefits of such release to the public in light of HMDA's statutory purposes.[20] The 2015 HMDA Final Rule's interpretation of HMDA section 304(h)(1)(E) and 304(h)(3)(B) to require a balancing test imposed binding obligations on the Bureau to evaluate the HMDA data, individually and in combination, to assess whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes.

On September 25, 2017, the Bureau published proposed policy guidance that described the Bureau's balancing test and how the Bureau proposed to apply it to the loan-level HMDA data made available to the public beginning in 2019, with respect to data compiled by lenders in or after 2018.[21]

On May 24, 2018, the President signed into law the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which amended HMDA by adding partial exemptions from HMDA's data collection and reporting requirements for certain insured depository institutions and insured credit unions.[22] On September 7, 2018, the Bureau published an interpretive and procedural rule to implement and clarify the EGRRCPA's requirements (2018 HMDA Final Rule).[23] Among other things, the Bureau clarified that institutions covered by a partial exemption have the option of reporting exempt data points as long as they report all data fields that the specific data point comprises. The Bureau also clarified which of the data points in Regulation C are covered by the partial exemptions.[24] The partial exemptions apply beginning with the 2018 HMDA data, which institutions must report to the Bureau by March 1, 2019.

III. The Balancing Test

As noted above, in the 2015 HMDA Final Rule, the Bureau interpreted HMDA to require that public HMDA data be modified when the disclosure of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such disclosure to the public in light of HMDA's purposes. The Bureau included in the proposed policy guidance a detailed description of the balancing test and its proposed application, including the benefits of public disclosure, the risks to applicant and borrower privacy that may be created by public disclosure, and the Bureau's approach to balancing these benefits and risks, including through modifying some of the data to be disclosed.

As described in more detail in the proposal,[25] under the balancing test, the disclosure of the loan-level HMDA dataset creates risks to applicant and borrower privacy interests only where: (1) At least one data field or a combination of data fields substantially facilitates the identification of an applicant or borrower, and (2) at least one data field or combination of data fields discloses information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. At the individual data field level, a field may create ''re-identification risk'' by substantially facilitating the identification of an applicant or borrower in the HMDA data (for example, because it may be used to match a HMDA record to an identified record), or may create ''risk of harm or sensitivity'' by disclosing information about the applicant or borrower that is not otherwise public and may be harmful or sensitive.[26]

Where the public disclosure of the unmodified loan-level HMDA dataset would create risks to applicant and borrower privacy, the balancing test requires that the Bureau consider the benefits of disclosure to HMDA's purposes and, where these benefits do not justify the privacy risks the disclosure would create, modify the dataset to appropriately balance the privacy risks and disclosure benefits. An individual data field is a candidate for potential modification under the balancing test if its disclosure in unmodified form would create a risk of re-identification or a risk of harm or sensitivity.

The Bureau explained in the proposal that, with respect to the HMDA data that financial institutions will report to the agencies under the 2015 HMDA Final Rule, it initially determined public disclosure of the unmodified loan-level dataset, as a whole, would create risks to applicant and borrower privacy interests. The Bureau stated that this was due to the presence in the dataset of individual data fields that the Bureau believed would create re-identification risk and the presence of individual data fields that the Bureau believed are not currently public and would create a risk of harm or sensitivity. The Bureau thus applied the balancing test to determine whether and how it should modify the HMDA data financial institutions must collect and report under the 2015 HMDA Final Rule before it is disclosed to the public. Based on its analysis, the Bureau initially determined it would have to modify the loan-level HMDA data before it disclosed that data to the public. The Bureau also stated it initially determined the modifications to the loan-level HMDA dataset proposed in the proposed policy guidance would reduce risks to applicant and borrower privacy and appropriately balance them with the benefits of disclosure for HMDA's purposes.

For the reasons described below and in the proposed policy guidance,[27] the Bureau is modifying its proposed policy guidance to change the proposed treatment of the following data fields: (1) The ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision (debt-to-income ratio); (2) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan (total units); and (3) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs (affordable units). The Bureau determines that public disclosure of the unmodified loan-level dataset, as a whole, would create risks to applicant and borrower privacy interests and that the loan-level HMDA data must be modified before the data is disclosed to

[20] 80 FR 66128, 66134 (Oct. 28, 2015).

[21] *See* 82 FR 44586 (Sept. 25, 2017).

[22] Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, section 104(a), 132 Stat. 1296 (2018). The EGRRCPA provided, among other things, that the requirements of HMDA section 304(b)(5) and (6) (which requires collection and reporting of certain data points and provides the Bureau discretion to require additional data points) shall not apply to closed-end mortgage loans of an insured depository institution or insured credit union if the institution originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. The EGRRCPA also included a similar exemption with respect to open-end lines of credit.

[23] Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018).

[24] The Bureau interpreted the partial exemption to cover 26 of the 48 HMDA data points, including 12 data points that the Bureau added to Regulation C in the 2015 HMDA Final Rule to implement data points specifically identified in HMDA section 304(b)(5)(A) through (C) or (b)(6)(A) through (I), and 14 data points that were not found in Regulation C prior to the Dodd-Frank Act and that the Bureau required in the 2015 HMDA Final Rule pursuant to its discretionary authority under HMDA sections 304(b)(5)(D) and (b)(6)(J).

[25] *See* 82 FR 44586, 44590 (Sept. 25, 2017).

[26] *See id.* at 44592–95.

[27] *See id. at* 44596–44610.

the public. The Bureau further determines, based on the information currently available to it, that the modifications described in this final policy guidance will reduce risks to applicant and borrower privacy and appropriately balance them with the benefits of disclosure in light of HMDA's purposes. This final policy guidance describes the data the Bureau intends to disclose on each financial institution's modified loan/application register as well as in the combined loan-level data the agencies make available to the public each year.[28]

IV. Comments Received and the Bureau's Responses

The Bureau received 26 comments on the proposed policy guidance. These included general comments on the Bureau's proposal; views on the proposed treatment of particular data fields; and comments on other topics. The majority of the comments received did not address how the Bureau should treat specific data fields, and many comments opposing or expressing concern with the Bureau's proposal did not provide any evidence or analysis in support of their positions.

A. General Comments Concerning the Application of the Balancing Test to Loan-Level HMDA Data

Comments Received

Several industry commenters generally stated that the Bureau's proposal did not sufficiently address the privacy risks posed by the disclosure of HMDA data, but many of these commenters offered little evidence or analysis to support their views or specific suggestions to address their concerns. A few industry commenters stated that the HMDA data the Bureau proposed to disclose would be highly re-identifiable. They also stated that the new data fields required under the 2015 HMDA Final Rule increased this re-identification risk compared to the data publicly disclosed under the disclosure regime adopted by the Board in implementing the 1992 amendments to HMDA (the Board's disclosure regime).[29] A group of industry commenters stated that over 80 percent of loans publicly disclosed under the Board's disclosure regime could be re-identified and that the addition of the new data fields increases the possibility of re-identification to ''virtually 100%.'' [30] These commenters also suggested that the amount of HMDA data the Bureau proposed to disclose would create incentives to re-identify the data. Several industry commenters stated that technological advances increase the ease with which public HMDA data can be re-identified. One industry commenter stated that the Bureau had underestimated adversaries' [31] motives to re-identify the HMDA data and that the Bureau's proposal downplayed the risk that an adversary with personal knowledge of an applicant or borrower would re-identify the applicant or borrower in the HMDA data.

A few industry commenters also expressed general concern that, if the HMDA data were re-identified, the data could be used to target what one described as ''predatory'' marketing to applicants and borrowers and to commit financial fraud and identity theft. Two industry commenters suggested that these risks were posed by the data disclosed under the Board's disclosure regime but that the Bureau's proposed disclosure of the new data fields required by the 2015 HMDA Final Rule increased these risks. One industry commenter stated that data the Bureau proposed to disclose could be used for social engineering attacks, such as an adversary posing as a borrower's lender. The commenter also stated that disclosure could undermine lenders' use of fraud detection measures such as authentication questions that rely on a customer's personal knowledge of her financial information. The commenter also stated that data the Bureau proposed to disclose could be used to identify a vacation home for purposes of theft or adverse possession. A group of industry commenters stated that data the Bureau proposed to disclose could be used by an adversary to target older borrowers in particular, and also would allow the public to form a very accurate estimate of consumers' creditworthiness. A few industry commenters expressed general concern that the Bureau proposed to disclose data consumers would consider sensitive or would like or expect to remain private. One industry commenter suggested that lenders would be subject to ''increased litigation'' if HMDA data disclosed by the Bureau were used for criminal purposes.

With respect to disclosure benefits, a few industry commenters stated that public disclosure of the HMDA data, and in particular the new data required to be reported under the 2015 HMDA Final Rule, would not further HMDA's purposes. One industry commenter suggested that regulator access to HMDA data alone would be sufficient to accomplish HMDA's goals. This commenter and another industry commenter also stated that the data disclosed to the public under the Board's disclosure regime are sufficient to allow the public to achieve HMDA's goals. Another industry commenter suggested that the Bureau should publicly disclose limited data at first, and then later determine whether the information disclosed is sufficient to allow the public to achieve HMDA's purposes. None of these commenters specifically addressed the benefits of the data's public disclosure to HMDA's purposes identified in the proposal.

Two industry commenters addressed the balancing of privacy risks and disclosure benefits. One industry commenter stated that if there is ''any chance'' that HMDA data could be used for criminal purposes, the benefits of disclosure could not outweigh the privacy risks created by disclosure. Another industry commenter suggested that the balancing test requires the Bureau to modify the data to the point that re-identification risk is ''remote,'' although the commenter did not elaborate on what that term means or

[28] As described below in part IV.B and C, the Bureau will not include on the modified loan/application registers (1) an indication of whether the reported loan amount exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) or (2) information about the MSA or Metropolitan Division in which the property securing or proposed to secure the loan is located. This information will be included in the annual loan-level disclosure of all reported HMDA data combined.

[29] 12 CFR 203.5(c) (effective Mar. 1, 1993) (identifying the data a financial institution must delete from its modified loan/application register prior to making it available to the public).

[30] These commenters cited a 2017 research paper in support of their statement that attaching a borrower's name and address to a HMDA record can be achieved in over 80 percent of cases. *See* Anthony Yezer, ''Personal Privacy of HMDA in a World of Big Data,'' at 4 (Geo. Wash. U., Inst. for Int'l Econ. Policy, Working Paper No. IIEP–WP–2017–21, 2017). In this paper, the author states that, in a particular census tract that he identified as presenting low re-identification risk compared to others in the same county, he was able to re-identify 72 percent of borrowers with loans by the same lender by matching the 2014 public HMDA data to public records. *Id.* at 14–16. He also describes several projects in which academic and government researchers matched HMDA data to other data sources—some to private datasets, others to public records—and achieved up to a 75 percent match rate. *Id.* at 11–14. It is unclear which research supports the author's claim that re-identification of HMDA data disclosed under the Board's disclosure regime ''can be achieved in over 80% of cases.'' *Id.* at 3.

[31] The Bureau used the term ''adversary'' in the proposed policy guidance to refer to persons that may attempt to re-identify the HMDA data. *See, e.g.,* Nat'l Inst. of Standards & Tech., ''De-Identification of Personal Information (2015),'' *available at http://nvlpubs.nist.gov/nistpubs/ir/2015/NIST.IR.8053.pdf* (using ''adversary'' to refer to an entity attempting to re-identify data).

what would need to be shown to meet it.

A few industry commenters recommended that the Bureau disclose the new data required under the 2015 HMDA Final Rule only in aggregate form, and one industry commenter stated that the Bureau should not disclose the new data to the public at all. Another industry commenter suggested that the Bureau disclose all HMDA data, including data publicly disclosed under the Board's disclosure regime, in aggregate form only.

Several commenters generally supported the Bureau's proposal. These commenters generally agreed with the Bureau's assessment and proposed balancing of privacy risks and disclosure benefits, although almost all of these commenters disagreed with the proposal's treatment of a few specific fields and advocated for greater disclosure, as discussed below in part IV.B. A group of consumer advocate commenters emphasized that loan-level HMDA data have long been publicly disclosed without any evidence the data has been used to harm applicants and borrowers. These commenters asserted that industry commenters' claims about re-identification risk failed to account for the Bureau's proposed modifications and stated that the HMDA data the Bureau proposed to disclose would be unlikely to be used to engage in identity theft. These commenters also provided detailed descriptions of the benefits of public disclosure of HMDA data to HMDA's purposes. An industry commenter described HMDA data as a critical source of information for the public to understand the mortgage market and to analyze the impact of public policies on communities and borrowers. This industry commenter supported the expansion of the data under the 2015 HMDA Final Rule and the Bureau's proposal to disclose much of the new data. Another industry commenter similarly stated that much of the new data required to be reported under the 2015 HMDA Final Rule is vital to accurate and complete fair lending analyses and to understanding the housing needs of communities. An individual commenter also expressed support for the public availability of HMDA data, noting in particular the usefulness of the data to identify what the commenter described as ''predatory'' lending.

Bureau Response

For the reasons described below, the Bureau determines that none of the general comments it received provide a sufficient basis to make changes to the proposed policy guidance. On the other hand, as explained below in part IV.B, the Bureau determines that some specific comments it received about particular data fields provide an adequate basis to make changes to the proposed treatment of these fields.

HMDA is a disclosure statute; public disclosure of HMDA data is central to the achievement of HMDA's goals.[32] The Bureau acknowledges, as it did in the proposal, that the modifications it intends to apply to the loan-level HMDA data disclosed to the public will not completely eliminate privacy risks. Nevertheless, the Bureau determines that, to the extent disclosure creates risks to applicant and borrower privacy, such risks are justified by the benefits of such release to the public in light of HMDA's purposes.

The public loan-level HMDA data have always displayed a high level of record uniqueness and included fields that are also found in identified public records.[33] The Bureau believes that some degree of re-identification risk in connection with the public disclosure of the data is acceptable because HMDA requires the Bureau to consider not only the risk posed by disclosure, but also the benefits of disclosure to HMDA's purposes. The Bureau does not believe that HMDA permits it to modify data based solely on the existence of a ''chance'' that HMDA data could be used for harmful purposes, as suggested by one industry commenter, without considering such risk in light of the benefits of disclosure to HMDA's purposes. Similarly, the Bureau believes it would be inconsistent with HMDA to modify the public data to the point that re-identification risk is ''remote,'' as suggested by another industry commenter, instead of to the point that any privacy risk created by the disclosure is justified by the benefits of the data to HMDA's purposes.

Under the final policy guidance, the Bureau intends to modify every new field required under the 2015 HMDA Final Rule that it has identified as likely to substantially facilitate the re-identification of an applicant or borrower. The Bureau is also making changes to the proposal concerning specific data fields where commenters pointed out that the proposal would have left unmodified data that would substantially facilitate re-identification. Further, the Bureau intends to significantly reduce the precision of loan amount in the public data.[34] Loan amount is a field that was required to be reported prior to the 2015 HMDA Final Rule and that the Bureau believes to be a significant contributor to re-identification risk in the HMDA data.

The Bureau has carefully considered the risk that a potential adversary, such as an applicant's or borrower's neighbor or acquaintance, may be able to re-identify the HMDA data by relying on personal knowledge about the applicant or borrower. As discussed in more detail in the proposal,[35] although the Bureau believes that location and demographic information may be more likely to be known than other information in the HMDA data, it is impossible to determine the exact content of any pre-existing personal knowledge such a potential adversary may possess. None of the comments provided any basis for the Bureau to make reliable predictions as to what this knowledge would be.

[32] *See* 12 U.S.C. 2801(b) (''The purpose of this chapter *is to provide the citizens and public officials of the United States with sufficient information*'' to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment) (emphasis added); 12 CFR 1003.1 (''This part implements the Home Mortgage Disclosure Act, *which is intended to provide the public with loan data* that can be used:'' to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes) (emphasis added).

[33] In 2005, researchers at the Board found that ''[m]ore than 90 percent of the loan records in a given year's HMDA data are unique—that is, an individual lender reported only one loan in a given census tract for a specific loan amount.'' Robert B. Avery et al., ''New Information Reported under HMDA and Its Application in Fair Lending Enforcement,'' at 367, Fed. Res. Bull. (Summer 2005), *available at http://www.federalreserve.gov/pubs/bulletin/2005/3-05hmda.pdf.* In the 2017 paper cited by a group of industry commenters, the author described the high record uniqueness observed in the 2014 public HMDA data for a particular county and stated that, in a census tract that he identified as presenting low re-identification risk compared to others in the county, he was able to re-identify 72 percent of borrowers with loans by the same lender by matching the public HMDA data to public records. *See* Yezer, *supra* note 30, at 14–16.

[34] Prior to the 2015 HMDA Final Rule, loan amount was reported rounded to the nearest thousand. Under the Board's disclosure regime, this field was disclosed to the public without modification. Consistent with its proposal and as discussed in part IV.B below, under the final policy guidance the Bureau intends to disclose loan amount binned in $10,000 intervals.

[35] *See* 82 FR 44586, 44594 (Sept. 25, 2017). The Bureau noted that, to the extent that disclosure of census tract and demographic information such as ethnicity and race would create risk to applicant and borrower privacy, it believed the risks would be justified by the benefits of disclosure. *Id.* at 44598. As discussed in part IV.B, two industry commenters opposed the proposal to disclose without modification census tract. No commenter opposed the proposal to disclose without modification race and ethnicity.

This uncertainty creates challenges for evaluating the degree to which individual data fields contribute to the risk of re-identification by such a potential adversary. The Bureau initially determined that, because the pre-existing personal knowledge possessed by such a potential adversary is typically limited to information about a single individual, or a small number of individuals, any re-identification attempt by such a potential adversary would likely target or affect a limited number of individuals.[36] No commenter disputed this statement, much less rebutted it with data or analysis.

The Bureau concludes, based on the information currently available to it, that the HMDA data it intends to disclose under this final policy guidance will be of minimal value to an adversary seeking to perpetrate identity theft or financial fraud against applicants and borrowers or to engage in other unlawful conduct.[37] Specifically, as noted in the proposal, the HMDA data do not include information typically required to open new accounts in a consumer's name, such as Social Security number, date of birth, place of birth, passport number, or driver's license number, nor do they include information useful to perpetrate existing account fraud, such as account numbers or passwords. Although an adversary might try to use almost any information relating to an individual to steal her identity or commit fraud against her, the Bureau concludes that disclosure of HMDA data would be unlikely to increase the information already publicly available that an adversary could exploit for these purposes. For example, the public HMDA data will include the name of the financial institution and other details about the loan terms that could be used in a social engineering attack against a borrower by a perpetrator pretending to be the financial institution or against a financial institution by a perpetrator pretending to be the borrower. However, these and other data that could be used for this purpose are often already publicly available—in identified form—in real estate transaction records.

The Bureau determines that an individual seeking to rob or adversely possess a property would be unlikely to undertake the effort required to re-identify public HMDA data to determine whether such a property is a vacation home, as suggested by an industry commenter. With respect to the industry commenter that expressed concern that lenders would be subject to increased litigation in the event public HMDA data was used for criminal purposes, as noted above, the Bureau concludes that it is unlikely the public HMDA data would be used for criminal purposes. Even if the data were used for such purposes, the Bureau is unable to identify a basis for lender liability under such a circumstance, and the commenter did not describe how such increased litigation would arise.

The Bureau acknowledges that, if the public HMDA data were re-identified, that is, if an adversary were to link an identified individual to his or her HMDA data, certain fields would reveal information about an applicant's or borrower's creditworthiness. However, information about applicant and borrower creditworthiness is important to HMDA's purposes. For example, this information assists in identifying possible discriminatory lending patterns by helping ensure that users are comparing applicants and borrowers with similar profiles, thereby controlling for factors that might provide non-discriminatory explanations for disparities in credit and pricing decisions. As explained below, despite the opposition of many commenters, the Bureau is issuing final policy guidance that excludes from the public HMDA data credit score, which is the field that would reveal the most about an applicant's or borrower's creditworthiness.

The Bureau described and analyzed potential adversaries' incentives to re-identify public HMDA data in the proposed policy guidance.[38] Even though some adversaries may have such incentives and loan-level HMDA data has been made available to the public since 1991, the Bureau is unaware of any instances of re-identification of the data for harmful purposes. Commenters provided no evidence of such re-identification. In the 2017 paper cited by a group of industry commenters, the author states that, using the 2014 public HMDA data, he re-identified 72 percent of borrowers with loans by the same lender in a particular census tract by matching the data to public records, but it appears that this exercise was undertaken solely to demonstrate that such matching can be done.[39] Also in this paper, the author points to several projects in which academic and government researchers matched HMDA data to other data sources—some to private datasets, others to public records—for purposes of research related to mortgage lending.[40] It is not clear from several of the resulting papers whether the researchers used public HMDA data to perform the matching (at least one appears to have relied on nonpublic HMDA data), but, in any event, it appears that in none of these instances were the HMDA data matched to other data sources for purposes of re-identifying borrowers, let alone for purposes of harming consumers. The Bureau concludes the modifications it intends to apply to the public HMDA data under the final policy guidance will minimize the attractiveness of the HMDA data for harmful purposes, and so will reduce any incentives for adversaries to re-identify the data.[41]

In 2015, the Bureau determined that public disclosure of the new HMDA data required under the 2015 HMDA Final Rule would further the purposes of HMDA. As noted above, the statute and Regulation C are clear that HMDA's purpose is the provision of data to the public and public officials in furtherance of HMDA's goals. Congress itself determined that many of the new data should be collected and reported to further HMDA's purposes, and the Bureau determined in the rulemaking resulting in the 2015 HMDA Final Rule that each of the new HMDA data fields it added using its discretionary authority furthers HMDA's goals. Several commenters described how the new HMDA data furthers HMDA's purposes, and no commenters provided analysis or data to support the general statement made by a few commenters that the public disclosure of HMDA data does not further the statute's purposes. For purposes of this final policy guidance, the Bureau takes as given the determinations made in the 2015 HMDA Final Rule, but the Bureau has stated that it may reconsider these determinations with respect to some or all of the discretionary fields through a new legislative rulemaking.

Finally, the Bureau declines to exclude from the public data or disclose only in aggregate form all HMDA data or all new data required to be reported under the 2015 HMDA Final Rule, as suggested by several commenters. As noted, HMDA is a disclosure statute. It requires that HMDA data is made

[36] *Id.* at 44594.

[37] Indeed, as noted in the proposal, the Bureau believes that the data would be of minimal use for such purposes even without modification. *Id.* at 44595.

[38] *See id.* at 44593–95.

[39] Yezer, *supra* note 30, at 14–16.

[40] *Id.* at 11–14.

[41] For example, the Bureau believes that low credit scores and high debt-to-income ratios may provide information about a borrower's financial condition that may suggest vulnerability to scams relating to debt relief or credit repair. The final policy guidance will exclude credit score from the public HMDA data and will top-code debt-to-income ratio to protect very high ratios.

available to the public except as the Bureau determines necessary to protect applicant and borrower privacy interests. The Bureau interprets its obligation under the statute to permit modification of the data made available to the public only where the privacy risk such disclosure would pose would not be justified by the benefits of such disclosure in light of HMDA's purposes. Under the balancing test, excluding from public disclosure or disclosing only in aggregate form all HMDA data or all new HMDA data would require the Bureau to determine that the loan-level disclosure of each individual data field creates privacy risks that are not justified by the benefits of disclosure to HMDA's purposes and that the only modification available to appropriately balance the risks and benefits is exclusion from the public data. However, for the reasons discussed in the proposal,[42] the Bureau determines that most of the HMDA data create low, if any, privacy risk—they neither substantially facilitate re-identification nor do they create a risk of harm or sensitivity—and that any risks are justified by the benefits in light of HMDA's purposes. Except with respect to total units and affordable units, discussed below in part IV.B, none of the comments provided any information that casts doubt on this conclusion. Therefore, the Bureau concludes that excluding all HMDA data or all new HMDA data would be inconsistent with the statute and the balancing test, which the Bureau has by law bound itself to use to make disclosure determinations.

B. Comments Concerning the Proposed Treatment of Specific Data Fields Under the Balancing Test

Data To Be Disclosed Without Modification

The Bureau proposed to publicly disclose the following data fields as reported, without modification:[43]

- The following information about applicants, borrowers, and the underwriting process: Income, sex, race, ethnicity, name and version of the credit scoring model, reasons for denial, and automated underwriting system (AUS) name.[44]
- The following information about the property securing the loan: State, county, census tract, occupancy type, construction method, manufactured housing secured property type, manufactured housing land property interest, total units, and affordable units.
- The following information about the application or loan: Loan term, loan type, loan purpose, whether the application was submitted directly to the financial institution, whether the loan was initially payable to the financial institution, whether a preapproval was requested, action taken, type of purchaser, lien status, prepayment penalty term, introductory rate period, interest rate, rate spread, total loan costs or total points and fees, origination charges, total discount points, lender credits, whether the loan was a high-cost mortgage under the Home Ownership and Equity Protection Act (HOEPA), balloon payment, interest-only payment, negative amortization, other non-amortizing features, combined loan-to-value ratio, open-end line of credit flag, business or commercial purpose flag, and reverse mortgage flag.
- The following information about the lender: Legal Entity Identifier (LEI) and financial institution name.[45]

The data fields above that were required to be reported under Regulation C prior to the 2015 HMDA Final Rule were disclosed to the public without modification under the Board's disclosure regime. The Bureau's continued disclosure of these data fields thus is consistent with the government's longstanding approach.

With the exception of LEI, financial institution name, action taken, reasons for denial, census tract, and income, each of which is discussed further below, the Bureau initially determined that disclosing the data listed above in the loan-level HMDA data released to the public would likely present low risk to applicant and borrower privacy. The Bureau also stated that, to the extent that disclosure of these fields would create risk to applicant or borrower privacy, the Bureau believed the risks would be justified by the benefits of disclosure in light of HMDA's purposes.[46]

An industry commenter and a group of consumer advocate commenters supported the Bureau's proposal to disclose without modification the fields the Bureau identified as likely to create low privacy risk. The industry commenter stated these data fields would provide valuable information about the mortgage market that is not available from any other source. The consumer advocate commenters stated that data fields relating to pricing—including the fields for interest rate, rate spread, total loan costs or total points and fees, origination charges, and discount points—would help data users identify potentially discriminatory price disparities within the prime and subprime mortgage markets. These commenters also stated that the data fields related to loan terms and conditions—such as the term of any prepayment penalty, the length of any introductory rate period, and whether the contractual terms include non-amortizing features such as a balloon payment—would serve as an early-warning system, enabling community organizations and government agencies to assess the prevalence of unfair, deceptive, and unaffordable lending. These commenters additionally supported the Bureau's proposal to disclose new race and ethnicity subcategories for Asian and Hispanic loan applicants. In their view, disclosure of these subcategories would help data users identify ''discrimination and targeting'' with greater precision and would promote responsible lending in all communities. These commenters also stated that disclosure of new data fields on manufactured housing would provide important information about the manufactured home market, including any issues of concern related to affordability, sustainability, or fair lending. Another consumer advocate commenter supported the Bureau's proposal to disclose whether the property is or will be used by the applicant or borrower as a principal residence, a second residence, or an investment property.

Except for total units and affordable units, the Bureau intends to disclose without modification the data fields the Bureau identified in the proposal as likely presenting low risk to applicant and borrower privacy, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing these data fields as reported appropriately balances the privacy risks that may be created by such disclosure and the benefits of such disclosure in light of HMDA's purposes.

[42] *See* 82 FR 44586, 44597–98 (Sept. 25, 2017).

[43] *Id.* at 44597–99.

[44] Note that, as discussed below, the Bureau proposed to exclude free-form text fields used to report certain data for the following data fields: ethnicity, race, name and version of the credit scoring model, reasons for denial, and AUS name. *Id.* at 44609–10.

[45] *See* 12 CFR 1003.4(a)(2)–(7), (a)(8)(i), (a)(9)(ii), (a)(10)(i), (a)(10)(iii), (a)(11)–(14), (a)(15)(i) (name and version of credit scoring model), (a)(16)–(22), (a)(24)–(27), (a)(29)–(33), (a)(35)(i) (AUS name), (a)(36)–(38).

[46] 82 FR 44586, 44598 (Sept. 25, 2017) (describing the utility of these data fields in light of HMDA's purposes: helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, to distribute public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

With respect to LEI, financial institution name, and census tract, the Bureau acknowledged in the proposal that disclosure would likely substantially facilitate the re-identification of applicants or borrowers. However, the Bureau initially determined that these risks to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[47] With respect to income, action taken, and reasons for denial, the Bureau recognized in the proposal that, if the HMDA data were re-identified, disclosure would likely create a risk of harm or sensitivity, but the Bureau initially determined these risks would be justified by the benefits of disclosure in light of HMDA's purposes.[48] The Bureau responds to the specific comments it received on its proposed treatment of these data and describes its final determinations below.

Legal Entity Identifier and Financial Institution Name

Regulation C requires a financial institution, when submitting its loan/application register to the Bureau, to report the financial institution's LEI and name.[49] This requirement is effective January 1, 2019, and will apply to the submission of 2018 HMDA data.[50] The LEI is an identifier issued to the financial institution by either a utility endorsed by the LEI Regulatory Oversight Committee or a utility endorsed or otherwise governed by the Global LEI Foundation (GLEIF) (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.[51] Prior to the 2015 HMDA Final Rule, a financial institution was required to report its name and HMDA Reporter's Identification Number (HMDA RID), a ten-digit number that consisted of an entity identifier specified by the financial institution's appropriate Federal agency combined with a code that designates the agency. Both the financial institution's name and HMDA RID were disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification LEI and financial institution name as reported.[52] The Bureau initially determined that disclosure of these data fields in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of applicants or borrowers, but that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[53] An industry commenter stated that, due to the risk of frivolous class action litigation against financial institutions, the public HMDA data should not reveal financial institutions' identities.

The Bureau declines to exclude LEI and financial institution name from the public HMDA data based on the risk of frivolous class action litigation against financial institutions. As described above, HMDA requires each financial institution to make its modified loan/application register available to the public, which necessarily entails identification of the lender. Though the 2015 HMDA Final Rule shifted responsibility for disclosing the modified loan/application register from institutions to the Bureau, the Bureau concludes that it must maintain the public's ability to obtain loan-level data for an individual lender. Further, the Bureau concludes that excluding these data fields, and thereby concealing the identities of lenders, would greatly undermine the utility of the public data for HMDA's purposes, because HMDA's purposes in large part concern evaluating the practices of individual lenders. Although the Bureau appreciates the industry commenter's concern about frivolous litigation against financial institutions and agrees such litigation should not be encouraged, it declines to exclude LEI and financial institution name from the public data on this basis.

The Bureau intends to disclose without modification LEI and financial institution name, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification LEI and financial institution name appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Action Taken and Reasons for Denial

Regulation C requires financial institutions to report the action taken by the financial institution in response to an application.[54] Financial institutions must report a code from a specified list set forth in the HMDA Filing Instructions Guide to indicate the action taken.[55] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule, and this data field was disclosed to the public without modification under the Board's disclosure regime.

Regulation C also requires financial institutions to report the principal reason or reasons the financial institution denied the application, if applicable.[56] If the financial institution denied the application, it must report one or more codes from a specified list to indicate the reason or reasons for denial.[57] Prior to the 2015 HMDA Final Rule, reporting of reasons for denial was optional, except as required by the OCC and FDIC for certain supervised financial institutions.[58] When reported, reasons for denial was disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification action taken and reasons for denial as reported.[59] The Bureau initially determined that disclosing action taken (if an application was denied) and reasons for denial in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. Nevertheless, the Bureau

[47] *Id.* at 44597–99.

[48] *Id.*

[49] 12 CFR 1003.4(a)(1)(i)(A); 12 CFR 1003.5(a)(3) (effective Jan. 1, 2019).

[50] 80 FR 66128, 66312 (Oct. 28, 2015).

[51] 12 CFR 1003.4(a)(1)(i)(A).

[52] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[53] *Id.* at 44598 (stating that the ability to identify the financial institution by name is critical for users to evaluate the lending practices of a financial institution).

[54] 12 CFR 1003.4(a)(8)(i).

[55] Bureau of Consumer Fin. Prot., ''Filing instructions guide for HMDA data collected in 2018—OMB Control No. 3170–0008,'' at 81 (Sept. 2018) (hereinafter FIG), *available at https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2018-hmda-fig-2018-hmda-rule.pdf.* Action taken is reported using the following codes: Code 1—Loan originated; Code 2—Application approved but not accepted; Code 3—Application denied; Code 4—Application withdrawn by applicant; Code 5—File closed for incompleteness; Code 6—Purchased loan; Code 7—Preapproval request denied; Code 8—Preapproval request approved but not accepted.

[56] 12 CFR 1003.4(a)(16). Insured depository institutions and insured credit unions are not required to report reasons for denial for loans or applications that are partially exempt under the EGRRCPA, although reporting may be required by another law or regulation. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[57] FIG, *supra* note 55, at 96–98. Reasons for denial is reported using the following codes: Code 1—Debt-to-income ratio; Code 2—Employment history; Code 3—Credit history; Code 4—Collateral; Code 5—Insufficient cash (down payment, closing costs); Code 6—Unverifiable information; Code 7—Credit application incomplete; Code 8—Mortgage insurance denied; Code 9—Other; Code 10—Not applicable; Code 1111—Exempt.

[58] 12 CFR 1003.4(c) (effective Jan. 1, 1990). Financial institutions regulated by the OCC are required to report reasons for denial on their HMDA loan/application registers pursuant to 12 CFR 27.3(a)(1)(i), 128.6. Similarly, pursuant to regulations transferred from the Office of Thrift Supervision, certain financial institutions supervised by the FDIC are required to report reasons for denial on their HMDA loan/application registers. 12 CFR 390.147.

[59] 82 FR 44586, 44597–99 (Sept. 25, 2017).

initially determined that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[60]

A group of consumer advocate commenters supported the Bureau's proposal to disclose action taken, stating that it is essential for determining whether lenders are responsibly meeting credit needs in a non-discriminatory manner. These commenters also stated that disclosure of reasons for denial—in conjunction with disclosure of the name and version of the credit scoring model and automated underwriting system used by the financial institution, as the Bureau proposed—would increase transparency in the marketplace and support fair lending enforcement by enabling data users to determine if there are differences in reasons for denial based on the credit scoring model or automated underwriting system used.

An industry commenter recommended that the Bureau exclude action taken and reasons for denial from the public HMDA data for commercial-purpose multifamily loans only. The commenter stated that disclosure of these fields would create re-identification risk and pose a unique risk of harm for commercial-purpose multifamily applicants. In the commenter's view, if the HMDA data were re-identified, commercial-purpose multifamily applicants could suffer negative reputational harm from certain information reported for action taken—specifically, ''Denied,'' ''Withdrawn by applicant,'' or ''Closed as incomplete''—and from any information relating to the reason for a denial. According to the commenter, the disclosure of this information could adversely affect these applicants' business relationships and these applicants may not be able to mitigate such harm effectively.

The Bureau does not believe that the concerns expressed by the industry commenter justify excluding from the public HMDA data action taken and reasons for denial for commercial-purpose multifamily applications and loans. The risk of harm identified by the commenter could arise only with respect to an application that did not result in an origination. As discussed in more detail in the proposal,[61] the Bureau concludes that re-identification risk is significantly reduced for applications that did not result in originations. The Bureau is not aware of any public or private dataset containing information about applications that do not result in originated mortgage loans. The Bureau believes that the lack of public information about applications would significantly reduce the likelihood that an adversary could match the record of a HMDA loan application that was not originated to an identified record in another dataset. Even if an applicant were to be re-identified, however, the Bureau concludes the harms the commenter envisions are unlikely to occur. Loan-level data for multifamily applications have been disclosed publicly since 1991, and the Bureau is not aware of any evidence that adversaries have re-identified these applications in the public HMDA data or that this type of harm has occurred. Further, even if this type of reputational harm were likely to occur, this harm would not be unique to commercial-purpose multifamily borrowers. Finally, if action taken were excluded, users would be unable to determine whether an application was originated, critically impairing the utility of the public data for HMDA's purposes.

The Bureau intends to disclose without modification action taken and reasons for denial, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification action taken and reasons for denial appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

State, County, and Census Tract

Regulation C requires financial institutions to report the State, county, and census tract of the property securing or proposed to secure the covered loan if the property is located in an MSA or Metropolitan Division (MD) in which the institution has a home or branch office, or if the institution is subject to § 1003.4(e).[62] Institutions must report the State using the two-letter State code of the property; the county using the five-digit Federal Information Processing Standards code for the county; and the census tract using the 11-digit census tract number defined by the U.S. Census Bureau.[63] As originally enacted and implemented in Regulation C, HMDA required financial institutions to disclose information about the financial institution's mortgage lending activity by census tract.[64] The 1992 amendments to HMDA requiring institutions to make publicly available their modified loan/application registers included language stating ''[i]t is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.'' [65] State, county, and census tract were disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification State, county, and census tract as reported.[66] The Bureau initially determined that disclosure of State and county would likely present low risk to applicant and borrower privacy, and that, to the extent that disclosure of these fields would create risk to applicant and borrower privacy, the risks would be justified by the benefits of disclosure in light of HMDA's purposes. The Bureau initially determined that disclosure of census tract would likely substantially facilitate the re-identification of applicants or borrowers, but that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[67]

One industry commenter opposed the Bureau's proposal to disclose census tract without modification, and another industry commenter opposed the disclosure of this field for commercial-purpose multifamily loans. The first industry commenter stated that, to reduce re-identification risk, the Bureau should exclude census tract from the public loan-level HMDA data and instead disclose ''generalized census tract classifications'' for each application or loan. The commenter suggested that, for example, the Bureau could indicate whether the property is located in a low- or moderate-income census tract or a census tract with a high percentage of minority residents. The second industry commenter stated that, for commercial-purpose multifamily loans only, the Bureau should exclude

[60] *Id.* at 44598 (describing the utility of action taken and reasons for denial in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[61] *See id.* at 44593 n.55.

[62] 12 CFR 1003.4(a)(9)(ii). 12 CFR 1003.4(e) requires banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the Community Reinvestment Act (CRA) to collect the information required by 12 CFR 1003.4(a)(9) for property located outside MSAs and MDs in which the institution has a home or branch office, or outside any MSA.

[63] FIG, *supra* note 55, at 83–84.

[64] Home Mortgage Disclosure Act of 1975, Public Law 94–200, section 304(a)(2)(A), 89 Stat. 1126 (Dec. 31, 1975); 12 CFR 203.4(a)(1) (effective June 28, 1976).

[65] 12 U.S.C. 2803(j)(2)(C).

[66] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[67] *Id.* at 44598 (describing the utility of census tract in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

census tract and county, and should disclose State only where there are enough multifamily originations in the State to make re-identification risk ''remote,'' although the commenter did not identify the number of originations that would satisfy that standard. According to the commenter, the disclosure of these data fields would pose elevated re-identification risk for multifamily borrowers, as significantly fewer commercial-purpose multifamily loans are originated each year than single-family loans.

The Bureau recognizes that disclosing generalized census tract classifications instead of the census tract would reduce re-identification risk. Nevertheless, the Bureau concludes that doing so would critically undermine the utility of the data for HMDA's purposes. If census tract were excluded from the HMDA data, the public and public officials would be unable to analyze the data at a geographic level smaller than county. Consequently, excluding census tract would make it virtually impossible for data users to identify possible discriminatory lending patterns within counties. For example, for a data user to analyze whether a lender was engaged in redlining, the user would need census tract to compare lending behavior among lenders in a particular community or an individual lender's behavior in different communities. Without census tract, users would also be unable to determine whether lenders were serving the housing needs of communities within counties or identify communities within counties where public-sector investment is needed to attract private investment. Additionally, excluding census tract from disclosure would also prevent financial institutions from using HMDA to assess their own fair lending risk by comparing their data with other institutions.[68]

The Bureau also declines to exclude State, county, and census tract for commercial-purpose multifamily loans. The Bureau determines that the privacy risk created by the disclosure of census tract, even if heightened with respect to multifamily loans, is justified by the critical benefits of this field to HMDA's purposes, as described in the above paragraph. The Bureau notes that, if census tract is disclosed, disclosure of county and State do not create additional privacy risk, because knowing the census tract allows a user to discern the county and state, as counties are geographic units within states and census tracts are geographic units within counties.

The Bureau intends to disclose without modification State, county, and census tract, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification State, county, and census tract appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Income

Regulation C requires financial institutions to report the gross annual income they relied on in making the credit decision or, if a credit decision was not made, the gross annual income they relied on in processing the application. Financial institutions do not have to report income for covered loans for which the credit decision did not consider income (or for applications for which the credit decision would not have considered income).[69] Financial institutions must report income rounded to the nearest thousand.[70] The Board amended Regulation C in 1989 to require reporting of income as part of its implementation of FIRREA.[71] Prior to the 2015 HMDA Final Rule, financial institutions were required to report this data field rounded to the nearest thousand. Under the Board's disclosure regime, this data field was disclosed to the public without modification.

The Bureau proposed to disclose without modification income as reported.[72] The Bureau initially determined that disclosing income in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. Nevertheless, the Bureau initially determined that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[73]

An industry commenter opposed the Bureau's proposal to disclose income without modification and recommended that the Bureau exclude income from the public HMDA data. The commenter stated that the new data required under the 2015 HMDA Final Rule would increase the risk that the HMDA data could be re-identified, and that information about a consumer's income is generally not available to the public and is considered sensitive by many consumers. The commenter also stated that income data would be ''inconsequential'' because the 2015 HMDA Final Rule modified Regulation C to require financial institutions to report debt-to-income ratio.

The Bureau does not believe that the concerns expressed by the commenter justify excluding income from the public HMDA data. The Bureau recognizes, as it stated in the proposal, that, if the HMDA data were re-identified, disclosure of income would likely create a risk of harm or sensitivity.[74] However, the Bureau believes that this risk is justified by the benefits of disclosure to HMDA's purposes. For example, income data plays a crucial role in: (1) Helping to identify whether the credit needs of people with low and moderate incomes in particular communities are being met; (2) the extent to which borrowers with low and moderate incomes are using certain products, such as home equity lines of credit; and (3) the extent to which lower-income borrowers are receiving credit under different terms than higher-income borrowers. The Bureau also believes that income data will continue to be valuable for achieving HMDA's fair lending purposes, notwithstanding the disclosure of debt-to-income ratio data pursuant to HMDA. Although lenders may rely more on debt-to-income ratio than on income in underwriting a loan, income will continue to be valuable as a proxy for debt-to-income ratio if debt-to-income ratio is not reported as a result of the EGRRCPA [75] or if the precision of debt-to-income ratio is reduced in the public data as a result of binning or top- or bottom-coding. To the extent the commenter's concern is that the HMDA data the Bureau proposed to disclose presents increased re-identification risk compared to the data disclosed under the Board's disclosure

[68] *See, e.g.,* Melanie Brody & Anjali Garg, ''2013 HMDA Data Is Now Available; Mortgage Lenders Should Consider Evaluating Redlining Risk,'' K&L Gates, Consumer Fin. Servs. Watch (Sept. 25, 2014), *available at https://www.consumerfinancialserviceswatch.com/2014/09/2013-hmda-data-is-now-available-mortgage-lenders-should-consider-evaluating-redlining-risk/* (''With the release of the 2013 HMDA data, lenders can now evaluate their own 2013 redlining risk by comparing their applications and originations in high-minority census tracts to those of their peers.'').

[69] 12 CFR 1003.4(a)(10)(iii).

[70] Comment 4(a)(10)(iii)–10.

[71] 54 FR 51356, 51363 (Dec. 15, 1989).

[72] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[73] *Id.* at 44598 (describing the utility of income in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[74] *Id.*

[75] As described in greater detail in part II.B, above, the EGRRCPA amended HMDA by adding partial exemptions from HMDA's data collection and reporting requirements for certain insured depository institutions and insured credit unions.

regime, the Bureau notes that it intends to modify every new field required under the 2015 HMDA Final Rule that it has identified as likely to substantially facilitate the re-identification of an applicant or borrower. Further, the Bureau intends to modify loan amount, a field that was disclosed without modification under the Board's disclosure regime and that the Bureau determines to be a significant contributor to re-identification risk in the HMDA data.

The Bureau intends to disclose without modification income. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification income appropriately balances the privacy risks that may be created by disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Data To Be Excluded or Otherwise Modified in the Loan-Level HMDA Data

The Bureau proposed to exclude or otherwise modify several data fields in the public HMDA data: The universal loan identifier; application date; loan amount; action taken date; property address; age; credit score; property value; debt-to-income ratio; the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator; and AUS result. The Bureau also proposed to exclude free-form text fields used in certain instances to report the following data: Ethnicity; race; the name and version of the credit scoring model; reasons for denial; and AUS name. Below the Bureau addresses the comments it received and describes its final action on each of these data fields and on two additional data fields it did not propose to modify but intends to modify under the final policy guidance: Total units and affordable units.

Universal Loan Identifier or Non-Universal Loan Identifier

Regulation C requires financial institutions to report a universal loan identifier (ULI) for each covered loan or application that can be used to identify and retrieve the application file.[76] Regulation C sets forth detailed requirements concerning the ULI to be assigned and reported.[77] A ULI must begin with the financial institution's LEI, followed by up to 23 additional characters to identify the covered loan or application, and then end with a two-character check digit calculated according to the methodology prescribed in appendix C of Regulation C.[78] In addition, a ULI must be unique within the institution and must not contain any information that could be used to directly identify the applicant or borrower.[79] Institutions reporting a loan for which a ULI was previously assigned and reported must report the ULI that was previously assigned and reported for the loan. The ULI must be reported as an alphanumeric field.[80] The requirement in the 2015 HMDA Final Rule to report a ULI replaced the requirement under prior Regulation C that a financial institution report an identifying number for the loan or loan application. Under the Board's disclosure regime, this loan or loan application identifying number was excluded from the public HMDA data. The Bureau added the requirement to report a ULI to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of, ''as the Bureau may determine to be appropriate, a universal loan identifier.'' [81]

Insured depository institutions and insured credit unions are not required to report ULI for loans or applications that are partially exempt under the EGRRCPA.[82] The 2018 HMDA Final Rule provides, however, that—because loans and applications must be identifiable in the HMDA data to ensure proper HMDA submission, processing, and compliance—institutions that choose not to report ULI pursuant to the EGRRCPA must report a non-universal loan identifier (NULI) for each loan and application.[83] The NULI may be composed of up to 22 characters and, among other requirements, must be unique within the insured depository institution or insured credit union, though it need not be unique within the industry.[84]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding ULI.[85] The Bureau initially determined that disclosing ULI in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[86]

A few industry commenters supported the Bureau's proposal to exclude ULI from the public HMDA data. A group of consumer advocate commenters did not oppose the Bureau's proposal to exclude ULI but recommended that, separate from the HMDA data, the Bureau publish an additional data product that, according to these commenters, would serve some of the same purposes as ULI. Specifically, these commenters recommended that the Bureau publish data on each financial institution's loan purchases by income level and by year originated. According to these commenters, this data would help data users assess whether financial institutions are purchasing loans made to low- and moderate-income borrowers from one another to improve their CRA ratings.

The Bureau intends to exclude ULI from the public HMDA data, as proposed, and to exclude NULI if it is reported instead of ULI. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding ULI and NULI from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.[87]

Application Date

Regulation C requires financial institutions to report, except for purchased covered loans, the date the application was received or the date shown on the application form.[88] This date must be reported by financial institutions as the exact year, month, and day, in the format of YYYYMMDD.[89] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule. The Board amended Regulation C in 1989 to require reporting of the date the application was received as part of its implementation of FIRREA.[90] Under the Board's disclosure regime, application date was excluded from the public HMDA data.

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by continuing to exclude

[76] 12 CFR 1003.4(a)(1)(i).

[77] *Id.*

[78] 12 CFR 1003.4(a)(1)(i)(A) through (C).

[79] 12 CFR 1003.4(a)(1)(i)(B)(3).

[80] FIG, *supra* note 55, at 77–79.

[81] 12 U.S.C. 2803(b)(6)(G).

[82] 83 FR 45325, 45329 (Sept. 7, 2018).

[83] *Id.* at 45330.

[84] *Id.; see also* FIG, *supra* note 55, at 78–79.

[85] 82 FR 44586, 44599–44600 (Sept. 25, 2017).

[86] *Id.* at 44599 (describing the utility of ULI in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities).

[87] Regarding the consumer advocate commenters' request for additional data, the Bureau will consider, as it does in the ordinary course of its business, whether to make additional information related to mortgage lending available to the public.

[88] 12 CFR 1003.4(a)(1)(ii).

[89] FIG, *supra* note 55, at 79.

[90] 54 FR 51356, 51363 (Dec. 15, 1989).

application date.[91] The Bureau initially determined that disclosing application date in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of disclosure in light of HMDA's purposes.[92]

A few industry commenters supported the Bureau's proposal to continue to exclude application date from the public HMDA data. Two of these commenters stated that excluding application date, along with the other data points the Bureau proposed to exclude, would reduce re-identification risk. Another of these commenters stated that excluding this data field, along with the other data points the Bureau proposed to exclude, would reduce the likelihood that community bank customers would become victims of identity theft or fraud.

The Bureau intends to exclude application date from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding application date from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Loan Amount and Property Value

Regulation C requires financial institutions to report the amount of the covered loan or the amount applied for.[93] For closed-end mortgage loans, open-end lines of credit, and reverse mortgages, this amount is the amount to be repaid as disclosed on the legal obligation, the amount of credit available to the borrower, and the initial principal limit, respectively. Loan amount must be submitted by financial institutions in numeric form reflecting the exact dollar amount of the loan.[94] Prior to the 2015 HMDA Final Rule, this data field was reported rounded to the nearest thousand; it was publicly disclosed without modification under the Board's disclosure regime. Although HMDA has always required financial institutions to report information about the dollar amount of a financial institution's mortgage lending activity,[95] the Board amended Regulation C in 1989 to require reporting of loan amount on a loan-level basis as part of its implementation of FIRREA.[96]

Regulation C also requires financial institutions to report the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan.[97] Financial institutions must report the value they relied on in making the credit decision, such as an appraisal value or the purchase price of the property.[98] Property value must be reported in numeric form reflecting the exact dollar amount of the value the financial institution relied on.[99] The Bureau added the requirement to report property value the financial institution relied on in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of the value of the real property pledged or proposed to be pledged as collateral.[100]

The Bureau proposed to modify the loan-level HMDA dataset disclosed to the public by disclosing the midpoint for the $10,000 interval into which the reported loan amount or property value falls instead of the exact value reported.[101] For example, for a reported loan amount or property value of $117,834, the Bureau would disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000. The Bureau initially determined that disclosing reported loan amount and property value in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[102] The Bureau also proposed to include an indicator of whether the reported loan amount exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) (GSE conforming loan limit).[103] The Bureau sought comment on whether to add a similar indicator for the applicable limit for loans eligible for insurance by the Federal Housing Administration (FHA conforming loan limit).[104]

A few commenters opposed the Bureau's proposal to disclose loan amount in $10,000 bins and asked the Bureau to disclose more precise loan amount values. A group of consumer advocate commenters and an industry commenter each recommended disclosing loan amount rounded to the nearest $1,000, like under the Board's disclosure regime. They asserted that $10,000 bins would disproportionately affect the utility of the data for smaller loans. Conversely, an industry commenter opposed the Bureau's proposal and asked the Bureau to disclose less precise loan amount values, stating that $10,000 bins would insufficiently obscure the reported value for larger loans, such as multifamily loans, and thus would yield insufficient protection against re-identification relative to smaller loans. As with loan amount, a few commenters urged the Bureau to disclose more precise property values, such as by rounding to the nearest $1,000, while an industry commenter supported disclosing less precise values. An industry commenter stated that property value, or the property value derived from loan-to-value ratio, could be matched to publicly-available property or appraisal records.

One industry commenter supported the Bureau's proposal to disclose loan amount and property value in $10,000 bins because it believed these bins would help prevent re-identification of applicants and borrowers while preserving much of the utility of these data fields. A government agency commenter supported the proposed GSE

[91] 82 FR 44586, 44600–01 (Sept. 25, 2017).

[92] *Id.* at 44600 (describing the utility of application date in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[93] 12 CFR 1003.4(a)(7).

[94] FIG, *supra* note 55, at 81.

[95] Home Mortgage Disclosure Act, Public Law 94–200, sections 301–310, 89 Stat. 1124, 1125–28 (1975).

[96] *See* 54 FR 51356 (Dec. 15, 1989).

[97] 12 CFR 1003.4(a)(28). Insured depository institutions and insured credit unions are not required to report property value for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[98] Comment 4(a)(28)–1.

[99] FIG, *supra* note 55, at 104.

[100] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(A).

[101] 82 FR 44586, 44601–02; 44607–08 (Sept. 25, 2017).

[102] *See id.* at 44601, 44607 (describing the utility of loan amount and property value in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[103] The dollar amount limitation on the original principal obligation as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) refers to the annual maximum principal loan balance for a mortgage acquired by Fannie Mae and Freddie Mac (the ''GSEs''). The FHFA is responsible for determining the maximum conforming loan limits for mortgages acquired by the GSEs. See Press Release, Fed. Hous. Fin. Agency, FHFA Announces Increase in Maximum Conforming Loan Limits for Fannie Mae and Freddie Mac in 2017 (Nov. 23, 2016), *available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Increase-in-Maximum-Conforming-Loan-Limits-for-Fannie-Mae-and-Freddie-Mac-in-2017.aspx.*

[104] *See* 24 CFR 203.18 (providing maximum amounts for eligible mortgages).

conforming loan limit indicator because the indicator would allow it to continue using public HMDA data to identify the market size for conforming loans for the purpose of setting housing goals for its regulated entities and to perform other analyses related to the conforming loan limit. Similarly, a group of consumer advocate commenters supported the proposed GSE conforming loan limit flag. These commenters also recommended adding a similar indicator for the FHA conforming loan limit, stating that analysis of loans below the FHA conforming loan limit was important for fair lending purposes.

The Bureau determines that disclosing loan amount in $10,000 intervals will create a meaningful reduction in record uniqueness in the HMDA data when evaluating three data fields that the Bureau concludes contribute most to re-identification risk: Loan amount, census tract, and lender name. Although the Bureau recognizes that disclosing loan amount in $10,000 intervals will reduce the utility of this field compared to disclosing more precise amounts, it believes it will still allow users to rely on loan amount to further HMDA's purposes to some degree. For example, $10,000 intervals will still allow users to have some understanding of the amount of credit that financial institutions have made available to consumers in certain communities and the extent to which such institutions are providing credit in varying amounts.

The Bureau acknowledges that, as commenters stated, $10,000 intervals create a larger reduction in uniqueness for small loan amounts—providing more privacy protection and less data utility—and a smaller reduction in uniqueness for large loan amounts—providing less privacy protection and more data utility—relative to the baseline reduction in uniqueness for all loans in the dataset. To address the fact that the proposed uniform binning approach would not yield the same balance of benefits and risks across all loan amounts, the Bureau considered whether it could apply bin sizes that differed by reported loan amount. For example, the Bureau could create bin sizes that were a function of loan amount, such as a percentage of the reported value. However, this approach may allow adversaries to determine the precise loan amount by reversing the function applied to the reported loan amount value. The Bureau also considered graduated bin sizes for segments of loans. However, the larger bin sizes in a graduated binning scheme would disproportionately reduce the utility of the data in more expensive geographic regions. Graduated bin sizes also would more significantly impair overall data utility compared to $10,000 bins, as users who wish to work with a consistently binned dataset would have to use the largest bin size for all loans. Finally, identifying a basis upon which to segment loan amount values into different sized bins presents challenges. In principle, the Bureau could analyze the reported HMDA data annually and determine segments based on the distribution of loan amounts in a given year to try to achieve more consistent reduction in uniqueness across loans of all sizes. In practice, however, resubmissions and late submissions may change the distribution of loan amounts, creating a risk that the Bureau would lack sufficient time to determine and apply the appropriate bins before disclosing the modified loan/application registers.

Regarding an industry commenter's claim that property value could be matched to public appraisal records and could be derived from the loan-to-value ratio, the Bureau notes that appraisal records are not public, and the HMDA data will not contain loan-to-value ratio.[105] However, the Bureau believes that identified property tax records or real estate transaction records may contain values close enough to the reported property value that property value would substantially facilitate the re-identification of a loan. Property value was not required to be reported prior to the 2015 HMDA Final Rule. The Bureau nevertheless expects its uniqueness to be similar to the uniqueness of the values reported for loan amount and believes that disclosing property value in $10,000 intervals would create a meaningful reduction in uniqueness. The Bureau concludes that disclosing property value in $10,000 intervals would still allow data users to determine the general values of properties for which financial institutions are providing financing. As with loan amount, the Bureau considered approaches that would bin property value in different intervals depending on the reported value, but for the reasons described above, the Bureau is not adopting such approaches.

Disclosing property value in $10,000 intervals also reduces adversaries' potential ability to use combined loan-to-value ratio to derive the reported loan amount. As mentioned above, the Bureau intends to disclose without modification combined loan-to-value ratio. Although both loan amount and property value would likely substantially facilitate re-identification, the Bureau concludes that loan amount will be easier to match to public records where available, because public records that contain the loan amount will likely contain the exact loan amount reported under HMDA. In contrast, the Bureau concludes that financial institutions will likely report the appraisal value as the property value, and the appraisal value is not publicly available. However, even with property value disclosed in $10,000 intervals, if the reported combined loan-to-value ratio for a particular transaction is actually the loan-to-value ratio, the loan amount, property value, and combined loan-to-value ratio feasibly could be used to narrow the possible values for loan amount, thus decreasing the reduction in record uniqueness relative to $10,000 intervals.[106] The extent to which this possible interaction could decrease the benefits of binning loan amount is uncertain. As an initial matter, under the 2018 HMDA Final Rule, certain small insured depository institutions and insured credit unions will not be required to report combined loan-to-value ratio or property value, so the interaction at issue will not be possible for many loans. Moreover, the percentage of transactions for which the reported combined loan-to-value ratio will equal the loan-to-value ratio will vary based on market conditions, and the Bureau believes that adversaries will not be able to determine exactly when the combined loan-to-value and loan-to-value ratios are equal for a given transaction. Finally, even if an adversary could narrow for a particular transaction the range of possible loan amount values, the narrowed range may not yield a record that is unique on the data fields that most contribute to re-identification.

The Bureau proposed the GSE conforming loan limit indicator to facilitate the accuracy and transparency of the FHFA Housing Goals program.[107] FHFA has historically relied on public HMDA data to set statutorily-required housing goals for the GSEs to ensure the GSEs and the public are aware of and can provide feedback on FHFA's methodology. Binning loan amount as proposed would significantly reduce the accuracy of many calculations necessary to set these goals and measure performance, which hinge on determining whether loans meet the

[105] Unlike combined loan-to-value ratio, which includes the total amount of all debt secured by the property securing the loan reported, the loan-to-value ratio includes only the amount of the reported loan itself.

[106] Similarly, an adversary could narrow the possible values for property value.

[107] 12 CFR 1281.11 (bank housing goals); 12 CFR 1282.12 (GSE housing goals).

GSE conforming loan limit. Although FHFA could use non-public HMDA data for modeling purposes, this would result in FHFA, its regulated entities, and the public working from different datasets to evaluate the accuracy and transparency of the FHFA Housing Goals program.

In contrast to the GSE conforming loan limit indicator, a FHA conforming loan limit indicator would not serve a similarly compelling purpose. Disclosing loan amount in $10,000 intervals will sometimes reduce the ability of the public to determine whether a loan is at or above the FHA conforming loan limit. However, no commenter stated that the absence of this information would impact the FHA's ability to perform statutorily-required functions. Additionally, no commenter addressed the question of whether factors not reflected in the HMDA data would affect the accuracy of a FHA conforming loan limit indicator, and the Bureau remains concerned about its ability to accurately produce such an indicator using the HMDA data.

The Bureau intends to modify the loan-level HMDA data disclosed to the public by disclosing the midpoint for the $10,000 interval into which the reported loan amount or property value falls, as proposed. The Bureau also intends to indicate in the data disclosed whether the reported loan amount exceeds the GSE conforming loan limit.[108] For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Action Taken Date

Regulation C requires financial institutions to report the date of action taken by the financial institution on a covered loan or application.[109] For originated loans, this date is generally the date of closing or the date of account opening.[110] Regulation C provides some flexibility in reporting the date for other types of actions taken, such as applications denied, withdrawn, or approved by the institution but not accepted by the applicant. For example, for applications approved but not accepted, a financial institution may report ''any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed,'' provided it adopts a generally consistent approach.[111] This date is submitted by financial institutions as the exact year, month, and day, in the format of YYYYMMDD.[112] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule. As with the application date, the Board added the requirement to report the action taken date as part of the amendments to Regulation C that implemented FIRREA.[113] Under the Board's disclosure regime, action taken date was excluded from the public HMDA data.

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by continuing to exclude action taken date.[114] The Bureau initially determined that disclosing action taken date in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[115] A few industry commenters supported the Bureau's proposal to continue to exclude action taken date from the HMDA data disclosed to the public.

The Bureau intends to exclude action taken date from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding action taken date from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Property Address

Regulation C requires financial institutions to report the address of the property securing the loan or, in the case of an application, proposed to secure the loan.[116] This address corresponds to the property identified on the legal obligation related to the covered loan.[117] The property address reported by financial institutions includes the street address, city name, State name, and zip code.[118] The Bureau added the requirement to report property address in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of, ''as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral.'' [119]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding property address.[120] The Bureau initially determined that disclosing property address in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[121]

A few industry commenters supported the Bureau's proposal to exclude property address from the public HMDA data. A group of consumer advocate commenters recommended that the Bureau disclose a hashed value for each property address in lieu of the property address.[122] According to these commenters, disclosure of a hashed value in place of property address would help data users track ''loan flipping,'' which these commenters described as a predatory practice in which lenders target borrowers for a series of refinancings that increase the borrower's debt and strip equity. These commenters did not address whether the recommended hashed value should be used in place of a particular property address from year to year, *i.e.,* every time that the particular property address is included in reported HMDA data.

[108] The GSE conforming loan limit indicator will be included in the annual loan-level disclosure of all reported HMDA data combined, rather than in the modified loan/application register for each financial institution.

[109] 12 CFR 1003.4(a)(8)(ii).

[110] Comment 4(a)(8)(ii)–5.

[111] Comment 4(a)(8)(ii)–4.

[112] FIG, *supra* note 55, at 81.

[113] 54 FR 51356, 51363 (Dec. 15, 1989).

[114] 82 FR 44586, 44602–03 (Sept. 25, 2017).

[115] *Id.* at 44602 (describing the utility of action taken date in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[116] 12 CFR 1003.4(a)(9)(i). Insured depository institutions and insured credit unions are not required to report property address for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[117] Comment 4(a)(9)(i)–1. For applications that did not result in an origination, the address corresponds to the location of the property proposed to secure the loan as identified by the applicant. *Id.*

[118] Comment 4(a)(9)(i)–2.

[119] 12 U.S.C. 2803(b)(6)(H).

[120] 82 FR 44586, 44603–04 (Sept. 25, 2017).

[121] *Id.* at 44603 (describing the utility of property address in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[122] A hashed value is a value generated by a secure hash algorithm. A hash algorithm is designed to be non-invertible, meaning that the original value, in this case the reported property address, could not be derived from the hashed value.

The Bureau declines to disclose a hashed value in place of the property address. The Bureau finds that a hashed value used only within a particular year's HMDA data would have limited value for studying loan flipping. However, if a hashed value were carried over from year to year, the Bureau is concerned that, if one transaction related to the property were re-identified, the hashed value could be used to re-identify every loan secured by the property in any other year's HMDA data. The Bureau also finds it would be difficult to develop a hashing algorithm that recognizes, with certainty, if a reported property address is unique, given slight differences in how property addresses may be reported.

The Bureau intends to exclude property address from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding property address from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Age

Regulation C requires financial institutions to report the age of the applicant or borrower.[123] A financial institution complies with this requirement by reporting age, as of the application date reported, as the number of whole years derived from the date of birth as shown on the application form.[124] The Bureau added the requirement to report age in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of age.[125]

The Bureau proposed to disclose age binned into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74. The Bureau also proposed to bottom-code age under 25 and to top-code age over 74.[126] The Bureau initially determined that disclosing reported age in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[127]

The Bureau also proposed to indicate whether a reported age is 62 or higher to enhance the utility of the data for identifying the particular fair lending risks that may be posed with regard to older populations.[128] The Bureau recognized that an effect of this indicator would be to divide the 55 to 64 bin into two bins, 55 to 61 and 62 to 64. The Bureau sought comment on whether, instead of binning age as proposed and indicating whether a reported age is 62 or higher, the Bureau should disclose reported ages of 55 to 74 in ranges of 55 to 61 and 62 to 74.

An industry commenter expressed support for the Bureau's proposal to modify reported age. A group of consumer advocate commenters expressed general support for the Bureau's proposal. These commenters stated that applicant and borrower age is vital for fair lending enforcement and to identify potential unfair and deceptive lending. These commenters also stated that, in the years before the 2008 financial crisis, abusive lenders targeted older adults, especially older adults of color, and that abuses also occurred in the reverse mortgage market for adults over age 62. These commenters expressed support for the Bureau's proposal to indicate whether a reported age is 62 or higher. These commenters also expressed a preference for the proposed bins and indicator approach to the alternative the Bureau considered (binning reported ages of 55 to 74 in ranges of 55 to 61 and 62 to 74), noting that the proposed bins would provide more precise data with respect to borrowers newly eligible for reverse mortgages (*i.e.,* 62- to 64-year old borrowers). Finally, these commenters asked the Bureau to top-code age at 84, instead of 74. They stated that Americans are living longer, and top-coding age at 84 would help the public identify reverse mortgage and other lending patterns affecting the oldest seniors, including any fair lending or affordability concerns.

An industry commenter expressed opposition to the Bureau's proposal and recommended that the Bureau exclude age entirely from the public HMDA data. The commenter expressed concern that disclosing age could facilitate re-identification of applicants and borrowers and enable adversaries to prey on vulnerable age groups.

The Bureau acknowledges the risks identified by the industry commenter. However, as explained in the proposal, applicant or borrower age would assist users in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes by allowing users to examine potential age discrimination in lending.[129] Applicant or borrower age would also assist in determining whether financial institutions are serving the housing needs of their communities, including the needs of various age cohorts.

The Bureau determines that indicating whether the reported age is 62 or higher would provide the greater utility identified by the commenters, as compared to the alternative bins about which the Bureau sought comment. Additionally, this approach would result in more consistent binning of the data and would allow analysis of the HMDA data in combination with data found in other public data sources, such as U.S. Census Bureau data, to further HMDA's purposes. The Bureau determines that the difference in privacy protection provided by the proposed approach compared to the alternative is minimal and is justified by the benefits of the proposed approach.

Finally, the Bureau believes that top-coding age over 84 could allow greater visibility into lending practices with respect to the oldest consumers and could further HMDA's purposes: Specifically, such disclosure could permit the public and public officials to better understand whether lenders are serving the housing needs of the oldest seniors of their communities and to observe lending patterns relating to such consumers, a typically fixed-income population that is engaging in increased dwelling-secured borrowing with respect to which there is little public data currently available. However, the Bureau believes this approach also could increase privacy risk. The Bureau believes the reported HMDA data likely will not include significant numbers of records for applicants and borrowers over age 84, which could pose re-identification risk. Thus, the harm and sensitivity risks identified in the proposal may be heightened to the extent that adversaries could re-identify the oldest borrowers. Based on the information currently available to it, in light of the potential risks and benefits of this approach, the Bureau determines not to top-code age over 84.

The Bureau intends to modify the loan-level HMDA data disclosed to the

[123] 12 CFR 1003.4(a)(10)(ii).

[124] Comment 4(a)(1)(ii)–1.

[125] 12 U.S.C. 2803(b)(4).

[126] 82 FR 44586, 44604 (Sept. 25, 2017).

[127] *Id.* (describing the utility of age in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[128] Under Federal law, age 62 or higher is considered to be older age for certain purposes. *See, e.g.,* 24 CFR 206.33 (concerning eligibility for a home equity conversion mortgage); 12 CFR 1002.2(o) (defining ''elderly'' as 62 or older).

[129] *See* 82 FR 44586, 44604 (Sept. 25, 2017).

public by disclosing age binned into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74, as proposed. The Bureau also intends to bottom-code age under 25 and to top-code age over 74. Finally, the Bureau intends to indicate whether reported age is 62 or higher. For the reasons discussed above and in more detail in the proposal, the Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Credit Score

Regulation C requires financial institutions to report, except for purchased covered loans, the credit score or scores relied on in making the credit decision and the name and version of the scoring model used to generate each credit score.[130] It also provides that, for purposes of this requirement, ''credit score'' has the meaning set forth in section 609(f)(2)(A) of the Fair Credit Reporting Act (FCRA).[131] Financial institutions must report credit score as a numeric field, *e.g.,* 650.[132] Financial institutions must also report a code from a specified list to indicate the name and version of the scoring model used to generate each credit score reported.[133] The Bureau added the requirement to report these data in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of ''the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe.'' [134]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding credit score.[135] The Bureau initially determined that disclosing credit score in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[136]

A few industry commenters supported the Bureau's proposal to exclude credit score from the public HMDA data. Another industry commenter opposed the Bureau's proposal to exclude credit score. The commenter stated that it would be extremely difficult to re-identify applicants or borrowers using this data field because credit scores are not publicly available, and that sensitivity alone should not be a basis for withholding data from the public where re-identification risk is low. The commenter stated further that credit scores are critically important in identifying possible discriminatory lending patterns, enforcing antidiscrimination statutes, and determining whether financial institutions are serving the housing needs of their communities, because they are an important factor in financial institutions' underwriting decisions.

A group of consumer advocate commenters also opposed the Bureau's proposal to exclude credit score. These commenters stated that credit scores are essential in fair lending analysis because they help determine whether similarly situated applicants are treated differently solely due to their race or gender. The commenters recommended that, to address the privacy concerns identified by the Bureau, the Bureau ''normalize'' reported credit scores before disclosure to the public. The commenters suggested that the Bureau either disclose credit scores: (1) As ''z-scores,'' which the commenters described as ''a measure of a credit score's place in the overall distribution of credit scores for loan applicants that year,'' or (2) in ''percentile ranges based on the distribution of loan applicants' credit scores.'' The commenters also recommended that, if the Bureau excludes credit score from the public HMDA data, the Bureau disclose credit scores in aggregate form by census tract, for all lenders and for each lender. According to the commenters, this information would help the public assess whether the industry as a whole or individual lenders are treating similarly situated neighborhoods differently due to the racial, ethnic, income, or age composition of the neighborhood.

The Bureau finds that the industry commenter underestimates the re-identification risk associated with the HMDA data, even modified as proposed, and that, where re-identification risk is present, sensitivity alone is a basis for modification under the balancing test. The Bureau declines to adopt the consumer advocate commenters' recommendation that the Bureau normalize the credit score data and disclose the normalized data. The Bureau finds that this alternative would not reduce privacy risks to the point that they would be justified by the disclosure benefits. Disclosure of a normalized credit score would reflect the applicant's or borrower's reported credit score in relation to all other applicants and borrowers in a particular year's HMDA data. Thus, the Bureau believes that, if the HMDA data were re-identified, disclosure of this information would likely create a risk of harm or sensitivity similar to the risk created by disclosure of reported credit score.[137]

The Bureau intends to exclude credit score from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding credit score from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Debt-to-Income Ratio

Regulation C requires financial institutions to report, except for purchased covered loans, the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision (debt-to-income ratio).[138] The debt-to-income ratio must be reported as a percentage.[139] The Bureau added the requirement to report debt-to-income ratio in the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.'' [140]

The Bureau proposed to disclose reported debt-to-income ratio of greater than or equal to 40 percent and less than 50 percent.[141] The Bureau also proposed to bin reported debt-to-income ratio

[130] 12 CFR 1003.4(a)(15)(i). Insured depository institutions and insured credit unions are not required to report credit score for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[131] 12 CFR 1003.4(a)(15)(ii).

[132] FIG, *supra* note 55, at 94–95.

[133] *Id.* at 95–96.

[134] 12 U.S.C. 2803(b)(6)(I).

[135] 82 FR 44586, 44604–06 (Sept. 25, 2017).

[136] *Id.* at 44605 (describing the utility of credit score in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[137] Regarding the consumer advocate commenters' recommendation that the Bureau disclose credit scores in aggregate form, the Bureau will consider, as it does in the ordinary course of its business, whether to make additional information related to mortgage lending available to the public.

[138] 12 CFR 1003.4(a)(23). Insured depository institutions and insured credit unions are not required to report debt-to-income ratio for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[139] FIG, *supra* note 55, at 101.

[140] 12 U.S.C. 2803(b)(6)(J).

[141] 82 FR 44586, 44606–07 (Sept. 25, 2017).

values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 40 percent; and 50 percent to less than 60 percent. In addition, the Bureau proposed to bottom-code reported debt-to-income ratio values under 20 percent and to top-code reported debt-to-income ratios of 60 percent or higher. The Bureau initially determined that disclosing reported debt-to-income ratio would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that, for certain debt-to-income ratio values, this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[142]

The Bureau also initially determined that, for many financial institutions, debt-to-income ratio of 36 percent serves as an internal underwriting benchmark, so that the ability to identify whether an applicant's debt-to-income ratio is above or below this value would help users analyzing lending patterns to control for factors that might provide a legitimate explanation for disparities in credit or pricing decisions. The Bureau sought comment on whether the benefits of disclosing more granular information concerning debt-to-income ratio values at or around 36 percent would justify the risks to applicant and borrower privacy such disclosure would likely create, and how such information should be disclosed.

An industry commenter expressed support for the Bureau's proposed treatment of debt-to-income ratio. A group of consumer advocate commenters expressed general support for the Bureau's proposal and also urged the Bureau to adopt more granular disclosure of debt-to-income ratio values near 36 percent, agreeing with the Bureau that 36 percent is a common underwriting benchmark. An industry commenter expressed opposition to the Bureau's proposal to bin debt-to-income ratio values into ranges, arguing that the Bureau should disclose debt-to-income ratio without modification. According to the commenter, binning reduces the utility of the data, thereby hampering understanding of lending practices. The commenter added that misuse of the data would be ''almost impossible'' because, if property address were not disclosed, as the Bureau proposed, re-identification of applicants and borrowers would be extremely difficult.

The Bureau finds that the industry commenter underestimates the re-identification risk associated with the HMDA data, even modified as proposed. The Bureau determines that the existence of various regulatory, guarantor, and investment program benchmarks justifies disclosing exact debt-to-income ratio values between 40 and 50 percent, for the reasons set forth in more detail in the proposal.[143] Further, based on the comment from a group of consumer advocates and further analysis, the Bureau finds that a 36 percent debt-to-income ratio serves as an internal underwriting benchmark for many lenders. The ability to identify whether an applicant's debt-to-income ratio is at or above this level therefore also would help data users control for factors that might provide a legitimate explanation for disparities in credit and pricing decisions. The Bureau determines that the best way to allow users to determine whether a value is at or above this benchmark is to extend the range of debt-to-income values disclosed without modification from ''greater than or equal to 40 percent and less than 50 percent'' to ''greater than or equal to 36 percent and less than 50 percent.'' The Bureau believes that the modifications the Bureau intends to apply will reduce the privacy risks created by the public disclosure of debt-to-income ratio while preserving much of the benefits of the data field.

The Bureau intends to disclose debt-to-income ratio as proposed, except that it intends to disclose without modification debt-to-income ratio values greater than or equal to 36 percent and less than 50 percent instead of greater than or equal to 40 percent and less than 50 percent. The Bureau intends to bin reported debt-to-income ratio values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent. The Bureau also intends to bottom-code reported debt-to-income ratio values under 20 percent and to top-code reported debt-to-income ratios of 60 percent or higher. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that the disclosure of reported debt-to-income ratio values greater than or equal to 36 percent and less than 50 percent, and the modifications it intends to apply to other reported debt-to-income ratio values, appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Total Units and Affordable Units

Regulation C requires financial institutions to report the total number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan (total units).[144] Regulation C also requires financial institutions to report, for properties that include multifamily dwellings, the number of affordable units related to the property. The rule defines affordable units as individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs.[145] The rule defines ''multifamily dwelling'' as a dwelling, regardless of construction method, that contains five or more individual dwelling units.[146]

The total units and affordable units data fields were not reported fields prior to the 2015 HMDA Final Rule; the Bureau added them to the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.'' [147] Prior to the 2015 HMDA Final Rule, however, data users could determine whether a property was a multifamily property, because the ''property type'' data field—which was eliminated under the 2015 HMDA Final Rule—included a code for ''multifamily.'' Property type was disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose these data fields to the public as reported.[148] The Bureau initially determined that disclosing these data fields would likely present low risk to applicant and borrower privacy, and, to the extent that disclosing these fields would create risk to applicant and borrower privacy, that the risks would

[142] *See id.* at 44606 (describing the utility of debt-to-income ratio in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[143] *See id.* at 44606–07.

[144] 12 CFR 1003.4(a)(31).

[145] 12 CFR 1003.4(a)(32). Insured depository institutions and insured credit unions are not required to report affordable units for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[146] 12 CFR 1003.2(n). Under Regulation C, a covered loan is secured by a multifamily dwelling if it is secured by the entire multifamily dwelling; thus, a loan to purchase an entire apartment building or condominium building would be a loan secured by a multifamily dwelling, while a loan to purchase an individual condominium in that building would not be. Comment 2(n)–3.

[147] 12 U.S.C. 2803(b)(6)(J).

[148] 82 FR 44586, 44597–99 (Sept. 25, 2017).

be justified by the benefits of disclosure in light of HMDA's purposes.[149]

Several consumer advocate commenters supported the Bureau's proposal to disclose without modification these data fields. One consumer advocate commenter stated that multifamily loan data, in general, would help the public assess how lending practices affect low- and moderate-income tenants. This commenter also stated that data on total units would help data users determine how many households are affected by a loan and that the data on affordable units would provide valuable information about the financing of affordable housing.

An industry commenter opposed the proposal to disclose total units and affordable units for multifamily loans. This commenter stated that disclosure of this data for multifamily loans would create a heightened risk of re-identification, because the number of units and number of affordable units can vary widely across multifamily properties and therefore may allow identification of specific properties. The commenter requested that, for multifamily loans only, the Bureau exclude these data fields from the publicly available HMDA data if the relevant geographic area does not include enough multifamily loans to protect against re-identification, although the commenter did not specify the minimum number of loans necessary to do so. The commenter further recommended that, if there is a sufficient number of multifamily loans to protect against re-identification, the Bureau should disclose total units binned into ranges—the commenter suggested bins of 5 to 49 and 50 and above—and disclose the value reported for the number of affordable units as a percentage of the number of total units.

Based on these comments and the additional analysis described below in this paragraph, the Bureau believes that disclosing without modification reported values for total units of 5 and above in the loan-level HMDA data would likely substantially facilitate the re-identification of applicants or borrowers and that this risk would not be justified by the benefits of disclosure. The Bureau determines that multifamily loans are somewhat more unique than other loans in the data and that, in many cases, an adversary could match the reported total units for multifamily loans with publicly available information about the number of units in a multifamily property, because this information is widely available to the public from sources including public records and real estate websites.

For these reasons, the Bureau intends to modify the loan-level HMDA data disclosed to the public so that total units are binned into the following ranges: 5 to 24; 25 to 49; 50 to 99; 100 to 149; and 150 and over. The Bureau further determines that these modifications will reduce re-identification risk while preserving much of the benefit from disclosing this field, as data users will still be able to approximate with some precision how many units a particular transaction affects. Additionally, under the Bureau's approach, the bins for total units will align with the bins used by HUD's Rental Housing Finance Survey—the preeminent Federal data source on rental housing finance characteristics—allowing users to analyze HMDA data in combination with data from that survey to further HMDA's purposes. The Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes. The Bureau declines to adopt the bins suggested by the commenter—5 to 49 and 50 and over—because the Bureau concludes that these bins would provide insufficient precision regarding the number of housing units a transaction affects. The Bureau believes that the bins it is adopting better balance the privacy risks and disclosure benefits associated with the disclosure of this field.

The Bureau determines that disclosure in the loan-level HMDA data of affordable units creates minimal risk, if any, of substantially facilitating the re-identification of applicants and borrowers in the HMDA data. However, it determines that, under certain circumstances, disclosure without modification of affordable units would undermine the privacy protection that binning total units achieves and that this risk is not justified by the benefits of disclosure. To reduce this risk, the Bureau intends to disclose affordable units as a percentage of the value reported for total units, rounded to the nearest whole number. The Bureau determines that this modification appropriately balances the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Nationwide Mortgage Licensing System and Registry Identifier

Regulation C requires financial institutions to report the unique identifier the Nationwide Mortgage Licensing System and Registry (NMLSR ID) assigned to the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable.[150] The NMLSR ID must be reported in numeric form, such as 123450.[151] In the 2015 HMDA Final Rule, the Bureau added the requirement to report the NMLSR ID to implement the Dodd-Frank Act's requirement that financial institutions report, ''as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the [Secure and Fair Enforcement for] Mortgage Licensing Act of 2008.'' [152]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding the NMLSR ID.[153] The Bureau initially determined that disclosing the NMLSR ID in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[154]

Several industry commenters and a group of consumer advocate commenters expressed support for the Bureau's proposal to exclude the NMLSR ID. The consumer advocate commenters also recommended that, in place of the NMLSR ID for the individual mortgage loan originator, the Bureau disclose the applicable NMLSR ID for the loan originator's company or branch. According to these commenters, disclosing the company or branch identifier would eliminate re-identification risk while helping data users assess the practices of mortgage brokers in the mortgage lending market, which these commenters described as a critical but hidden facet of the market.

[149] *Id.* at 44598 (describing in light of HMDA's purposes the utility of total units and affordable units—along with the other data fields that the Bureau proposed to disclose without modification on the basis that they present low privacy risk—including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, to distribute public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[150] 12 CFR 1003.4(a)(34). Insured depository institutions and insured credit unions are not required to report NMLSR ID for loans or applications that are partially exempt under the EGRRCPA. 83 FR 45325, 45329 (Sept. 7, 2018).

[151] FIG, *supra* note 55, at 107–08.

[152] 12 U.S.C. 2803(b)(6)(F).

[153] 82 FR 44586, 44608–09 (Sept. 25, 2017).

[154] *See id.* (describing the utility of NMLSR ID in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforcing antidiscrimination statutes).

The Bureau does not intend to disclose the NMLSR ID for the loan originator's company or branch as some commenters suggested. As discussed in the proposal, the Bureau believes the NMLSR ID for a loan originator would substantially facilitate re-identification of the HMDA data because it is required to appear on various documents associated with the loan, including the security instrument, and many jurisdictions publicly disclose these real estate transaction records in an identified form.[155] For companies or branches with small numbers of mortgage loan originators, disclosing the company or branch identifier may allow adversaries to narrow the potential mortgage loan originator NMLSR IDs for the loan, which would create similar re-identification concerns. Further, the HMDA data reported to the Bureau will not contain the NMLSR ID for the loan originator's company or branch. Because mortgage loan originators may work out of multiple branches, assigning the correct branch identifier may not be possible.

The Bureau intends to modify the loan-level HMDA data disclosed to the public by excluding the NMLSR ID, as proposed. For the reasons discussed above and in more detail in the proposal, the Bureau determines, based on the information currently available to it, that this modification appropriately balances the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Automated Underwriting System Result

Regulation C requires that, except for purchased covered loans, financial institutions report ''the name of the automated underwriting system used by the financial institution to evaluate the application and the result generated by that automated underwriting system.'' [156] Regulation C defines ''automated underwriting system'' for the purposes of this requirement as ''an electronic tool developed by a securitizer, Federal government insurer, or Federal government guarantor . . . that provides a result regarding the credit risk of the applicant and whether the covered loan is eligible to be originated, purchased, insured, or guaranteed by that securitizer, Federal government insurer, or Federal government guarantor.'' [157] Financial institutions report a code from a specified list to indicate the result or results generated by the AUS or AUSs used.[158] Financial institutions may report up to five AUS names and five AUS results.[159] The Bureau added these requirements in the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.'' [160]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding AUS result.[161] The Bureau initially determined that disclosing AUS result in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[162]

A few industry commenters supported the Bureau's proposal to exclude AUS result from the public HMDA data. Two AUS owner commenters also supported the Bureau's proposal to exclude AUS result, agreeing with the Bureau's assessment that AUS results are sensitive. These commenters also incorporated by reference comments they submitted in connection with the 2015 HMDA Final Rule in which they expressed concern that AUS result could be used to reverse-engineer proprietary information about how AUSs are designed.

A group of consumer advocate commenters opposed the Bureau's proposal to exclude AUS result. The commenters disagreed with the Bureau's assessment that the benefits of disclosing AUS result do not justify the privacy risks that may be created by such disclosure. The commenters stated that AUS result can aid significantly in fair lending analysis by helping data users determine whether similarly situated borrowers were treated differently due to race, gender, or age. The commenters also stated that the codes for AUS result—such as ''Approve/Ineligible,'' ''Ineligible,'' or ''Incomplete''—would not reflect any more negatively on applicants than the fact of a loan application denial.[163] An industry commenter also opposed the Bureau's proposal. The commenter stated that it would be extremely difficult to re-identify applicants or borrowers using AUS result because it is not available in other public databases, and that sensitivity alone should not be a basis for withholding data from the public where re-identification risk is low. The commenter stated further that AUS result is critically important in identifying possible discriminatory lending patterns, enforcing antidiscrimination statutes, understanding lenders' underwriting decisions, and determining whether financial institutions are serving the housing needs of their communities.

The Bureau determines that disclosing AUS result in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. The Bureau finds that the industry commenter that opposed the Bureau's proposal underestimated the re-identification risk associated with the HMDA data, even modified as proposed, and that, where re-identification risk is present, sensitivity alone is a basis for modification under the balancing test. The Bureau further finds that the consumer advocate commenters understated the sensitivity of AUS result data. As the Bureau explained in the proposal, if a HMDA record were associated with an identified applicant or borrower, disclosure of a ''negative'' AUS result would reveal information that would likely be perceived as reflecting negatively on the applicant's or borrower's willingness or ability to pay.[164] Most consumers would consider such information sensitive and disclosure of this information could lead to dignity harm or embarrassment. The Bureau also determines that scam artists and other bad actors could use this field to target marketing to applicants or borrowers to try to take advantage of vulnerable consumers. The Bureau determines these privacy risks are not justified by the benefits of disclosure.

[155] *Id.*

[156] 12 CFR 1003.4(a)(35)(i). Insured depository institutions and insured credit unions are not required to report these data fields for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[157] 12 CFR 1003.4(a)(35)(ii).

[158] FIG, *supra* note 55, at 109–10. AUS result is reported using the following codes: Code 1—Approve/Eligible; Code 2—Approve/Ineligible; Code 3—Refer/Eligible; Code 4—Refer/Ineligible; Code 5—Refer with Caution; Code 6—Out of Scope; Code 7—Error; Code 8—Accept; Code 9—Caution; Code 10—Ineligible; Code 11—Incomplete; Code 12—Invalid; Code 13—Refer; Code 14—Eligible; Code 15—Unable to Determine or Unknown; Code 16—Other; Code 17—Not applicable; Code 1111—Exempt. *Id.*

[159] Comment 4(a)(35)–3.iv.

[160] 12 U.S.C. 2803(b)(6)(J).

[161] 82 FR 44586, 44609 (Sept. 25, 2017).

[162] *Id.* (describing the utility of AUS result in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[163] As noted above, the Bureau proposed to disclose data on the action taken by the financial institution—which includes information that a consumer's application was denied—without modification. *Id.* at 44597–99.

[164] *Id.* at 44609.

The Bureau intends to exclude AUS result from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding AUS result from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Free-Form Text Fields

Regulation C requires financial institutions to use free-form text fields to report certain data. Free-form text fields are unique in the HMDA data reported to the Bureau because they allow the reporting of any information, rather than certain specified types of numbers or codes. Free-form text fields must be used to report the name and version of the credit scoring model used, reasons for denial, AUS system name, and AUS result where the financial institution reports a code indicating that a non-listed value applies, and the fields may also be used to report certain ethnicity and race information, if provided by the applicant or borrower.[165] Free-form text fields used to report race and ethnicity must be completed by applicants; all other free-form text fields must be completed by the financial institution.[166] The maximum number of characters for the AUS system name, AUS result, and reasons for denial free-form text fields, including spaces, is 255; the maximum number of characters including spaces for all other free-form text fields is 100.[167]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding these free-form text fields.[168] The Bureau initially determined that free-form text fields would allow the reporting of any information, including information that creates risks to applicant and borrower privacy, and that, given the amount of HMDA data reported each year, it would not be feasible for the Bureau to review the contents of each free-form text field submitted before disclosing the loan-level HMDA data to the public. The Bureau initially determined that excluding free-form text fields is a modification to the public loan-level HMDA data that appropriately balances the risks to applicant and borrower privacy and the benefits of disclosure in light of HMDA's purposes.[169]

Two industry commenters supported the Bureau's proposal to exclude free-form text fields. A group of consumer advocate commenters requested that the Bureau clarify that financial institutions cannot use the free-form text field to report a reason for denial if the reason for denial can be reported using an available code.

The Bureau intends to exclude free-form text fields from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding free-form text fields from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.[170]

Inclusion of Multifamily Loan Data

One industry commenter recommended that the Bureau not disclose any loan-level data concerning loans secured by multifamily dwellings. The commenter stated that all data reported for these applications and loans should be excluded from the loan-level data made available to the public because HMDA's principal focus is single-family consumer-purpose mortgage transactions; the data required to be reported are inapplicable to multifamily loans; and multifamily lending differs from consumer-purpose single-family lending (*e.g.,* because different criteria is considered in underwriting).

The Bureau declines to categorically exclude multifamily loan data from the public HMDA data. As noted above, HMDA requires that HMDA data be made available to the public except as the Bureau determines necessary to protect applicant and borrower privacy interests.[171] Because the Bureau determines that most of the HMDA data create low, if any, privacy risk, and that any risks are justified by the benefits in light of HMDA's purposes, excluding all multifamily loan data would be inconsistent with the statute and the balancing test. In addition, multifamily loans have always been included in the public HMDA data and Regulation C exempts lenders, on a data field-by-data field basis, from reporting data that is inapplicable to multifamily loans. Further, the Bureau concludes that the differences between single-family and multifamily loans do not reduce the value of public multifamily loan data for advancing HMDA's purposes, especially considering that multifamily housing is a vital component of the nation's housing stock.

C. Other Comments Received

Additional Data

Prior to the 2015 HMDA Final Rule, Regulation C required financial institutions to report the location of the property to which the loan or application relates, by MSA or by Metropolitan Division, by State, by county, and by census tract, if the institution has a home or branch office in that MSA or Metropolitan Division. To reduce burden on financial institutions, the 2015 HMDA Final Rule eliminated from this provision the requirement to report the MSA or Metropolitan Division in which the property is located.[172] The Bureau proposed to identify in the public data, for each loan and application that would have been subject to this provision prior to the 2015 HMDA Final Rule, the MSA or Metropolitan Division in which the property securing or proposed to secure the loan is located. The Bureau received no comments on this proposal. For each loan and application with respect to which the financial institution reports property location information, the Bureau intends to identify in the public data the applicable MSA or Metropolitan Division.[173]

The FFIEC has historically included with its annual loan-level disclosure of all reported HMDA data the following census and income data: (1) Population (total population in tract); (2) Minority Population Percent (percentage of minority population to total population for tract, carried to two decimal places); (3) FFIEC Median Family Income (FFIEC Median family income in dollars for the MSA/MD in which the tract is

[165] *See* FIG, *supra* note 55, at 85–86 (ethnicity), 88–89 (race), 96 (name and version of credit scoring model used), 98 (reasons for denial), 108–09 (AUS system name), and 110 (AUS result). Insured depository institutions and insured credit unions are not required to report these data fields for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[166] *Id.*

[167] *Id.*

[168] 82 FR 44586, 44609–10 (Sept. 25, 2017).

[169] *Id.*

[170] The consumer advocate commenters' request seeks clarification about a matter unrelated to the subject of this final policy guidance, which is the disclosure of loan-level HMDA data. For information about how reasons for denial should be reported, see 12 CFR 1003.4(a)(16), Comment 4(a)(16)–1 through –4, and the FIG, *supra* note 55, at 96–98.

[171] *See supra* note 18 and accompanying text; part IV.A (responding to comments suggesting that the Bureau exclude from the public data or disclose only in aggregate form all HMDA data or all new data required to be reported under the 2015 HMDA Final Rule).

[172] 12 CFR 1003.4(a)(9)(ii) (effective Jan. 1, 2018); 80 FR 66128, 66187 (Oct. 28, 2015).

[173] If applicable, the MSA or Metropolitan Division will be included in the annual loan-level disclosure of all reported HMDA data combined, rather than in the modified loan/application register for each financial institution.

located (adjusted annually by FFIEC)); (4) Tract to MSA/MD Median Family Income Percentage (percentage of tract median family income compared to MSA/MD median family income, carried to two decimal places); (5) Number of Owner Occupied Units (number of dwellings, including individual condominiums, that are lived in by the owner); and (6) Number of 1- to 4-Family units (dwellings that are built to house fewer than five families). These data are intended to provide additional context to the reported HMDA data. The Bureau proposed to continue to include these data in the combined loan-level HMDA data disclosed to the public.

A group of consumer advocate commenters supported the proposal to continue to include the census and income data the FFIEC historically has included with its annual loan-level disclosure of all reported HMDA data. These commenters stated that the Minority Population Percent data can be incomplete as a demographic indicator and that disclosing the percentages of African-American and Hispanic populations separately would allow for a more accurate picture of the experience of geographic areas and neighborhoods in lending markets. These commenters also stated that, although neighborhoods with predominantly Asian residents are currently not as widespread as predominantly Hispanic and African-American neighborhoods, adding the percentage of Asians living in each census tract would be valuable in some major markets.

The Bureau intends that the census and income data historically included with the annual loan-level disclosure of all reported HMDA continues to be included with this disclosure. The Bureau will consider whether to recommend that the FFIEC add to these data the more granular minority population percentage data the consumer advocate commenters requested. Issuance of this final policy guidance does not require that a determination be made concerning the addition of the more granular data to the FFIEC's annual loan-level disclosure.

The FFIEC historically also has included with its annual loan-level disclosure of all reported HMDA an application date indicator reflecting whether the application date was before January 1, 2004, on or after January 1, 2004, or not available. The Bureau stated in the proposal that it believed the application date indicator for pre- and post-January 2004 is no longer useful to the analysis of the HMDA data and therefore proposed to no longer include the indicator in the combined loan-level HMDA data disclosed to the public. The Bureau received no comments concerning the application date indicator. The Bureau intends that the application date indicator historically included with the annual loan-level disclosure of all reported HMDA data is no longer included with this disclosure.

Restricted Access Program

The Bureau stated in the proposal that, as it had previously indicated in the supplementary information to the 2015 HMDA Final Rule, it believed HMDA's public disclosure purposes may be furthered by allowing industry and community researchers and academics to access the unmodified HMDA data through a restricted access program, for research purposes. The Bureau did not propose to establish a restricted access program but rather stated in the proposal that it continued to evaluate whether access to unmodified HMDA data should be permitted through such a program, the options for such a program, and the risks and costs that may be associated with such a program.

Two industry commenters expressed concerns that such a program would create risk that the data would be misused or subject to a data breach. A group of consumer advocate commenters supported such a program and offered specific suggestions concerning how it should be structured. The Bureau will take these comments into consideration as it continues to evaluate access to unmodified HMDA data through a restricted access program. Issuance of this final policy guidance does not require that a determination be made concerning a restricted access program.

Legislative Rulemaking

A group of industry commenters asserted that HMDA requires the Bureau to use a legislative rulemaking under the APA, rather than policy guidance, to identify the modifications to be applied to the loan-level HMDA data before it is disclosed to the public and suggested that the Bureau delay public disclosure of the data until such rulemaking is complete. Another industry commenter expressed concern that the Bureau did not use a rulemaking to determine the HMDA data to be disclosed to the public and stated that the Bureau should not disclose any new HMDA data until such a rulemaking is undertaken.

The Bureau determines that its adoption of the balancing test in the 2015 HMDA Final Rule satisfies its obligations under HMDA; HMDA does not require a legislative rulemaking to identify modifications to the public HMDA data. As discussed in more detail in the proposal,[174] in the 2015 HMDA Final Rule, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to public disclosure to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the disclosure of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such disclosure in light of the statutory purposes.[175] This interpretation implemented HMDA sections 304(h)(1)(E) and 304(h)(3)(B) because it prescribed standards for requiring modification of itemized information, for the purpose of protecting the privacy interests of mortgage applicants and borrowers, that is or will be available to the public.[176] The final policy guidance applies the balancing test to determine whether and how to modify the HMDA data reported under the 2015 HMDA Final Rule before it is disclosed on the loan level to the public.

Nonetheless, as noted above, even though it is not required to do so as a matter of law, the Bureau has decided that it would be beneficial to undergo a separate notice and comment legislative rulemaking under the APA to determine what HMDA data will be disclosed in future years. The Bureau will commence such a rulemaking in May 2019.

Data Collection and Reporting Under the 2015 HMDA Final Rule and Related Data Security Concerns

Several industry commenters raised concerns with the data collection and reporting requirements imposed on financial institutions by the 2015 HMDA Final Rule, and one consumer advocate commenter requested that the Bureau require the collection and reporting of additional data. These comments are outside the scope of the proposed policy guidance, which concerned only the public disclosure of data collected and reported, not the collection and reporting itself.[177] As

[174] *See* 82 FR 44586, 44589 (Sept. 25, 2017).

[175] 80 FR 66128, 66134 (Oct. 28, 2015).

[176] *Id.*

[177] The Bureau noted in the proposed policy guidance that the proposal did not reopen any portion of the 2015 HMDA Final Rule, as the Bureau did not intend, in the policy guidance, to revisit any decisions made in that rulemaking. *See* 82 FR 44586, 44587 (Sept. 25, 2017).

mentioned above, the Bureau intends to reconsider aspects of the 2015 HMDA Final Rule. Concerns about the data required to be collected and reported under Regulation C are more appropriately raised in comments submitted in connection with that rulemaking.

Several industry commenters also raised data security concerns related to the collection and reporting of HMDA data, including concerns with the system lenders use to submit their HMDA data to the Bureau and the Bureau's ability to protect the data during transmission and storage. A few of these commenters urged the Bureau to publish the details of its information security practices and procedures to address these concerns. One industry commenter suggested that financial institutions would be liable for a data breach at the Bureau that exposed nonpublic HMDA data, and also that financial institutions would be required to mitigate damages incurred by their customers as a result of such a breach. Again, these comments are outside the scope of the proposed policy guidance, which concerns the Bureau's intentional disclosure of HMDA data to the public as required by the statute. No comments received on the proposed policy guidance addressed data security concerns raised by the Bureau's proposed disclosure of HMDA data as required by HMDA.

Public Education

A group of industry commenters expressed concern that applicants do not understand why financial institutions must ask for certain sensitive information and report the information to the Bureau, and why such information may be publicly disclosed. These commenters suggested that explanatory information provided at the time of application would be especially helpful, and asked that the Bureau consult with industry and engage in educational efforts concerning the purposes and requirements of HMDA. A group of consumer advocate commenters requested that the Bureau produce materials to help data users understand the HMDA data to be made public and in what form. These commenters suggested that the Bureau update a chart it has previously made public, describing the HMDA data to be collected and reported, to reflect if and how the data will be made available to the public. The Bureau will consider, as it does in the ordinary course of its business, whether to address the concerns expressed in these comments.

V. Regulatory Requirements

The Bureau concludes that the final policy guidance on Disclosure of Loan-Level HMDA Data is a non-binding general statement of policy and/or a rule of agency organization, procedure, or practice exempt from notice and comment rulemaking requirements under the APA pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking was required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[178] The existing information collections contained in Regulation C have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 3170–0008. The Bureau determines that this final policy guidance does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq*. The Bureau has a continuing interest in the public's opinions regarding this determination. At any time, comments regarding this determination may be sent to the Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington DC 20552, or by email to *CFPB_Public_PRA@cfpb.gov*. The Bureau stated these conclusions in the proposed policy guidance and did not receive any comments on them.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau plans to submit a report containing this policy guidance and other required information to each House of the Congress and the Comptroller General. The Bureau plans to make such a submission at least 60 days prior to the date the Bureau will first publish loan-level HMDA data consistent with this policy guidance. The Bureau expects to publish such information on March 29, 2019. The Office of Information and Regulatory Affairs has designated this policy guidance as a ''major rule'' under 5 U.S.C. 804(2).

VII. Final Policy Guidance on Disclosure of Loan-Level HMDA Data

The text of the final policy guidance is as follows:

[178] 5 U.S.C. 603(a), 604(a).

Policy Guidance on Disclosure of Loan-Level HMDA Data

A. Background

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.,* requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. HMDA is implemented by Regulation C, 12 CFR part 1003. HMDA identifies its purposes as providing the public and public officials with sufficient information to enable them to determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[179] In 1989, the Board of Governors of the Federal Reserve System (Board) recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[180]

In 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[181] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. The Dodd-Frank Act amendments to HMDA also added new section 304(h)(1)(E), which directs the Bureau to develop regulations, in consultation with the agencies identified in section 304(h)(2),[182] that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.'' Section 304(h)(3)(B), also added by the Dodd-Frank Act, directs

[179] 12 U.S.C. 2801(b).

[180] *See* Home Mortgage Disclosure, 54 FR 51356, 51357 (Dec. 15, 1989) (recognizing the purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes in light of the 1989 amendments to HMDA, which mandated the reporting of the race, sex, and income of loan applicants).

[181] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–101 (2010).

[182] These agencies are the prudential regulators—the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency—the Department of Housing and Urban Development. Together with the Bureau, these agencies are referred to herein as ''the agencies.''

the Bureau of Consumer Financial Protection (Bureau) to ''prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of [HMDA], in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA].'' [183]

On October 28, 2015, the Bureau published a final rule amending Regulation C (2015 HMDA Final Rule) to implement the Dodd-Frank Act amendments and make other changes, including adding a number of new data points.[184] Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018,[185] and apply to data financial institutions collect beginning in 2018 and report beginning in 2019.

B. The Balancing Test

In the 2015 HMDA Final Rule, in consultation with the agencies and after notice and comment, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the release of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such release to the public in light of HMDA's purposes. In such circumstances, the need to protect the privacy interests of mortgage applicants or mortgagors requires that the itemized information be modified. This binding interpretation implemented HMDA sections 304(h)(1)(E) and 304(h)(3)(B) because it prescribed standards for requiring modification of itemized information, for the purpose of protecting the privacy interests of mortgage applicants and borrowers, that is or will be available to the public.[186]

The Bureau has applied the balancing test to determine whether and how to modify the HMDA data reported under the 2015 HMDA Final Rule before it is disclosed on the loan level to the public. This policy guidance describes the loan-level HMDA data that the Bureau intends to make available to the public beginning in 2019, with respect to data compiled by financial institutions in or after 2018, including modifications that the Bureau intends to apply to the data. This policy guidance is exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b) and is non-binding.

C. Loan-Level HMDA Data To Be Disclosed to the Public

The Bureau intends to publicly disclose loan-level HMDA data reported pursuant to the 2015 HMDA Final Rule as follows:

1. Except as provided in paragraphs 2 through 8 below, the Bureau intends to disclose all data as reported, without modification.

2. The Bureau intends to exclude the following from the public loan-level HMDA data:

a. Universal loan identifier, collected pursuant to 12 CFR 1003.4(a)(1)(i), or non-universal loan identifier, collected pursuant to 83 FR 45325, 45330 (Sept. 7, 2018);

b. The date the application was received or the date shown on the application form, collected pursuant to 12 CFR 1003.4(a)(1)(ii);

c. The date of action taken by the financial institution on a covered loan or application, collected pursuant to 12 CFR 1003.4(a)(8)(ii);

d. The address of the property securing the loan or, in the case of an application, proposed to secure the loan, collected pursuant to 12 CFR 1003.4(a)(9)(i);

e. The credit score or scores relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(15)(i);

f. The unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable, collected pursuant to 12 CFR 1003.4(a)(34);

g. The result generated by the automated underwriting system used by the financial institution to evaluate the application, collected pursuant to 12 CFR 1003.4(a)(35)(i); and

h. Free-form text fields used to report the following data: Applicant or borrower race, collected pursuant to 12 CFR 1003.4(a)(10)(i); applicant or borrower ethnicity, collected pursuant to 12 CFR 1003.4(a)(10)(i); name and version of the credit scoring model used to generate each credit score or credit scores relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(15)(i); the principal reason or reasons the financial institution denied the application, if applicable, collected pursuant to 12 CFR 1003.4(a)(16); and automated underwriting system name, collected pursuant to 12 CFR 1003.4(a)(35)(i).

3. With respect to the amount of the covered loan or the amount applied for, collected pursuant to 12 CFR 1003.4(a)(7), the Bureau intends to:

a. Disclose the midpoint for the $10,000 interval into which the reported value falls, *e.g.,* for a reported value of $117,834, disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000; and

b. Indicate where possible whether the reported value exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2).

4. With respect to the age of an applicant or borrower, collected pursuant to 12 CFR 1003.4(a)(10)(ii), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74;

b. Bottom-code reported values under 25;

c. Top-code reported values over 74; and

d. Indicate whether the reported value is 62 or higher.

5. With respect to the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(23), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent;

b. Bottom-code reported values under 20 percent;

c. Top-code reported values of 60 percent or higher; and

d. Disclose, without modification, reported values greater than or equal to 36 percent and less than 50 percent.

[183] Section 304(h)(3)(A) provides that a modification under section 304(h)(1)(E) shall apply to information concerning ''(i) credit score data . . . in a manner that is consistent with the purpose described in paragraph (1)(E); and (ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.'' 12 U.S.C. 2803(h)(3)(A).

[184] *See generally* Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 69567 (Nov. 10, 2015) (making technical corrections).

[185] Certain amendments to the definition of financial institution went into effect on January 1, 2017. *See* 12 CFR 1003.2 (effective Jan. 1, 2017); 80 FR 66128, 66308 (Oct. 28, 2015).

[186] 80 FR 66128, 66134 (Oct. 28, 2015).

6. With respect to the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, collected pursuant to 12 CFR 1003.4(a)(28), the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls, *e.g.,* for a reported value of $117,834, disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000.

7. With respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, collected pursuant to 12 CFR 1003.4(a)(31), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 5 to 24; 25 to 49; 50 to 99; and 100 to 149;

b. Top-code reported values over 149; and

c. Disclose, without modification, reported values below 5.

8. With respect to the number of individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs, collected pursuant to 12 CFR 1003.4(a)(32), the Bureau intends to disclose reported values as a percentage, rounded to the nearest whole number, of the value collected pursuant to 12 CFR 1003.4(a)(31).

Dated: December 20, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28404 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–AM–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Employers of National Service Enrollment Form and Employers of National Service Annual Survey; Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Employers of National Service Enrollment Form and Annual Survey for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by March 4, 2019.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Sharron A. Walker-Tendai, at 202–606–6930 or by email to *Stendai@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on October 17, 2018 at Vol. 83, No. 201, Pg. 52419–52420. This comment period ended December 17, 2018. No public comments were received.

Title of Collection: Employers of National Service Enrollment Form and Employers of National Service Annual Survey.

OMB Control Number: 3045–0175.

Type of Review: Renewal and addition of second instrument.

Respondents/Affected Public: Any organization that seeks to be or is an Employer of National Service program, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies.

Total Estimated Number of Annual Responses: 1180.

Total Estimated Number of Annual Burden Hours: 490.

Abstract: This is a request to renew the Employers of National Service Enrollment Form and add an additional related instrument, the Employers of National Service Annual Survey. Organizations from all sectors either seeking to become or already established Employers of National Service will be filling out these forms, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies. The key purpose of the enrollment form is to document what the organization is committing to doing as an Employer of National Service and provide contact information to CNCS. The information gathered on the enrollment form will also allow CNCS to display the organization's information accurately online as a resource for job seekers. It will also enable CNCS to speak to the diversity within the program's membership, both for internal planning and external audience use. The purpose of the survey form is to track what actions an employer has taken in the past year, gather stories of success or impact, collect quantitative hiring data relating to AmeriCorps and Peace Corps alumni, and provide organizations with an opportunity to update their contact and location data. CNCS seeks to renew the current information collection. The revisions are intended to reflect feedback from those outside CNCS. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on March 31, 2019.

Dated: December 21, 2018.

Sharron A. Walker-Tendai,

Program Support Specialist.

[FR Doc. 2019–00440 Filed 1–30–19; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2019–HQ–0002]

Proposed Collection; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army and Air Force Exchange Service (Exchange) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 1, 2019.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army & Air Force Exchange Service, Office of General Counsel, Compliance Division, ATTN: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 or call the Exchange Compliance Division at 800–967–6067.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Application for Employment; Exchange Form 1200–718 and Exchange Form 1200–026; OMB Control Number 0702–0133.

Needs and Uses: The information collection requirement is necessary to consider applicants for open Army & Air Force Exchange Service job opportunities. Data captured is essential in evaluating, ranking, and hiring the best, qualified individuals for enhancing the Exchange mission of providing services to United States Military Service Members.

Affected Public: Individuals or households.

Annual Burden Hours: 74,250 hours.

Number of Respondents: 99,000.

Responses per Respondent: 1.

Annual Responses: 99,000.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

Respondents are individuals interested in applying for employment opportunities with the Army & Air Force Exchange Service.

Dated: January 28, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–00431 Filed 1–30–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0047; OMB Control Number 0704–0321]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Contract Financing; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 4, 2019.

SUPPLEMENTARY INFORMATION: *Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and the Clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions; OMB Control Number 0704–0321.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Renewal of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 144.

Responses Per Respondent: 30.

Annual Responses: 4,320.

Average Burden Per Response: 1.5 hours.

Annual Response Burden Hours: 6,480 (includes 2,160 response hours plus 4,320 recordkeeping hours).

Needs and Uses: Section 22 of the Arms Export Control Act (22 U.S.C. 2762) requires the U.S. Government to use foreign funds, rather than U.S. appropriated funds, to purchase military equipment for foreign governments. To comply with this requirement, the Government needs to know how much to charge each country. The clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions, requires each contractor whose contract includes foreign military sales (FMS) requirements to submit a separate progress payment request for each progress payment rate, and to submit a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. requirements. The Government uses this information to determine how much of each country's funds to disburse to the contractor.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov*. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

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

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center

Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2019–00434 Filed 1–30–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Defense Science 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 Defense Science Board (DSB) will take place.

DATES: Day 1—Closed to the public Tuesday, February 19, 2019 from 8:00 a.m. to 5:00 a.m. Day 2—Closed to the public Wednesday, February 20, 2019 from 8:00 a.m. to 5:00 a.m.

ADDRESSES: The address of the closed meeting is the Executive Conference Center, 4075 Wilson Blvd., Floor 3, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Milo W. Hyde, III, U.S. Air Force, (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *milo.w.hyde2.mil@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.* 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) (title 5 United States Code (U.S.C.), Appendix), the Government in the Sunshine Act (title 5 U.S.C., section 552b), and title 41 Code of Federal Regulations (CFR), sections 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet to discuss the 2019 Sumer Study on the Future of U.S. Military Superiority (''the Summer Study'').

Agenda: The DSB Summer Study meeting will begin on February 19, 2019 at 8:00 a.m. with opening remarks by Lt. Col. Milo Hyde, the Designated Federal Officer, and Dr. Craig Fields, DSB Chairman. Next, the DSB members will meet in small groups to discuss classified ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression, given a renewed great power competition. Finally, the members of the study will meet in a plenary session to discuss classified ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression, given a renewed great power competition. The meeting will adjourn at 5:00 p.m. On February 20, 2019, the members of the study will meet in small groups beginning at 8:00 a.m. to discuss classified ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression, given a renewed great power competition. Next, the members of the study will meet in a plenary session to discuss classified ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression, given a renewed great power competition. The meeting will adjourn at 5:00 p.m.

Meeting Accessibility: In accordance with section 10(d) of the FACA and title 41 CFR, section 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense (Research and Engineering), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by title 5 U.S.C., section 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense (Research and Engineering).

Written Statements: In accordance with section 10(a)(3)of the FACA and title 41 CFR, sections 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB Designated Federal Official (DFO) provided above at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: January 28, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–00425 Filed 1–30–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0005]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* DFAS announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 1, 2019.

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

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

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

Instructions: All submissions received must include the agency name, docket

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Finance and Accounting Services—Cleveland, 1240 East 9th Street, Cleveland, OH 44199, ATTN: JFBDA-Mr. Charles Moss, *charles.a.moss16.civ@mail.mil,* 216–204–4426.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Trustee Report; DD 2826; OMB 0730–0012.

Needs and Uses: This form is used to report on the administration of the funds received on behalf of a mentally incompetent member of the uniformed services pursuant to 37 U.S.C. 602–604.

Affected Public: Individuals or households.

Annual Burden Hours: 200 hours.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 1 hour.

Frequency: On occasion.

When a member of the uniformed services is declared mentally incompetent, the need arises to have a trustee appointed to act on their behalf with regard to military pay matters. Trustees will complete this form to report the administration of the funds received on behalf of the member. The requirement to complete this form helps alleviate the opportunity for fraud, waste and abuse of Government funds and member's benefits.

Dated: January 28, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–00432 Filed 1–30–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

United States Naval Academy Board of Visitors; Notice of Federal Advisory Committee Meeting

AGENCY: United States Naval Academy Board of Visitors, Department of the Navy, 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 United States Naval Academy Board of Visitors will take place.

DATES: The open session of the meeting will be held on April 8, 2019, from 9:00 a.m. to 11:15 a.m. The executive session held from 11:15 a.m. to 12:00 p.m. will be the closed portion of the meeting.

ADDRESSES: The meeting will be held at the United States Naval Academy in Annapolis, Maryland.

FOR FURTHER INFORMATION CONTACT: CAPT George Lang, USN, 410–293–1500 (Voice), 410–293–2303 (Facsimile), *glang@usna.edu* (Email). Mailing address is U.S. Naval Academy, 121 Blake Road, Annapolis, MD 21402. Website: *https://www.usna.edu/PAO/Superintendent/bov.php.* 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.

This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11:15 a.m. to 12:00 p.m. on April 8, 2019, will consist of discussions of new and pending administrative or minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Department of the Navy/Assistant for Administration has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:15 a.m. to 12:00 p.m. will be concerned with matters protected under sections 552b(c)(5), (6), and (7) of title 5, United States Code. (Authority: 5 U.S.C. 552b)

Purpose of the Meeting: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

Agenda: 0830–0900 Assemble/Coffee (OPEN to public) 0900 Call to Order (OPEN to public) 0900–1100 Business Session (OPEN to public) 1100–1115 Break (OPEN to public) 1115–1200 Executive Session (CLOSED to public) Meeting Accessibility: The meeting will be handicap accessible.

Written Statements: N/A.

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

Dated: January 28, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00387 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces the availability of the inventions listed below, assigned to the United States Government, as represented by the Secretary of the Navy, for domestic and foreign licensing by the Department of the Navy.

ADDRESSES: Requests for copies of the patents cited should be directed to Naval Surface Warfare Center, Crane Div., Code OOL, Bldg. 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div., Code OOL, Bldg. 2, 300 Highway 361, Crane, IN 47522–5001, Email *Christopher.Monsey@navy.mil,* 812–854–2777.

SUPPLEMENTARY INFORMATION: The following patents are available for licensing: Patent No. 10,156,426 (Navy Case No. 102280): APPARATUS AND METHODS FOR PARALLEL TESTING OF DEVICES// and Patent No. 10,161,979 (Navy Case No. 103102): SYSTEM FOR PRECIPITATION–STATIC CHARGE LEVEL ESTIMATION FOR SURFACE DAMAGE TO DIELECTRICALLY COATED SURFACES.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: January 28, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00373 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meetings for the Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Mariana Islands Training and Testing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality, and Presidential Executive Order (E.O.) 12114, the Department of the Navy (DoN) has prepared and filed with the U.S. Environmental Protection Agency a Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS). In the Draft Supplemental EIS/OEIS, the DoN reassesses the potential environmental impacts associated with conducting ongoing and future military readiness activities, which includes training activities and research, development, testing, and evaluation activities (referred to as ''testing activities'') conducted at sea and on Farallon de Medinilla (FDM) within the Mariana Islands Training and Testing (MITT) Study Area (hereafter referred to as the Study Area) beyond 2020. In the Draft Supplemental EIS/OEIS, the DoN evaluates new, relevant information, such as more recent marine mammal density data and new scientific information, and updates the environmental analyses as appropriate. The DoN prepared the Draft Supplemental EIS/OEIS to support the issuance of federal regulatory permits and authorizations under the Marine Mammal Protection Act and the Endangered Species Act. The National Marine Fisheries Service (NMFS) is a cooperating agency for this Supplemental EIS/OEIS.

DATES: This notice announces the public comment period and the dates and locations of the public meetings, includes information about how the public can review and comment on the document, and provides supplementary information about the environmental planning effort. All comments must be postmarked or received online by March 18, 2019, Chamorro Standard Time, for consideration in the Final Supplemental EIS/OEIS. Federal and local agencies and officials, and interested organizations and individuals, are encouraged to provide substantive comments on the Draft Supplemental EIS/OEIS during the public review period or in person at one of the scheduled open house public meetings.

ADDRESSES: Public meetings will be held in an open-house format, with DoN representatives available to provide information and answer questions related to the Draft Supplemental EIS/OEIS. Open house public meetings will be held on Guam and Saipan. The public may arrive at any time during the open house, as there will not be a presentation or formal oral comment session. Open house public meetings will be held on the following dates and at the following locations:

1. 5:00 to 8:00 p.m. February 26, 2019, at University of Guam, Jesus & Eugenia Leon Guerrero School of Business and Public Administration Building, Anthony Leon Guerrero Multi-Purpose Room 129 and Henry Sy Atrium, Mangilao, Guam 96923.

2. 5:00 to 8:00 p.m. February 27, 2019, at Kanoa Resort Saipan, Seaside Hall, Beach Road in Susupe, Saipan, MP 96950.

Attendees will be able to submit written comments during the open house public meetings. A stenographer will be available for attendees wishing to provide oral comments, one-on-one. Equal weight will be given to oral and written comments. Comments may also be mailed to Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, or electronically via the project website at *www.MITT-EIS.com.* All comments, written or oral, submitted during the public comment period will become part of the public record and substantive comments will be addressed in the Final Supplemental EIS/OEIS.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134.

SUPPLEMENTARY INFORMATION: The Draft Supplemental EIS/OEIS was distributed to federal and local agencies with which the DoN consulted. Copies of the Draft Supplemental EIS/OEIS are available for public review at the following public libraries:

1. Robert F. Kennedy Memorial Library, University of Guam, UOG Station, Mangilao, GU 96923–1871.

2. Nieves M. Flores Memorial Library, 254 Martyr Street, Hagåtña, GU 96910–5141.

3. Tinian Public Library, San Jose Village, Tinian, MP 96952–9997.

4. Antonio C. Atalig Memorial Library (Rota Public Library), Rota, MP 96951–9997.

5. Joeten-Kiyu Public Library, Insatto Street, Saipan, MP 96950–9996.

The MITT Draft Supplemental EIS/OEIS is available for electronic viewing or download at *www.MITT–EIS.com.* A compact disc of the Draft Supplemental EIS/OEIS will be made available upon written request by contacting: Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134.

Dated: January 25, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00368 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of the Record of Decision for the Final Supplemental Environmental Impact Statement for Land-Water Interface and Service Pier Extension at Naval Base Kitsap Bangor, Kitsap County, WA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The United States Department of the Navy (Navy), announces its decision to construct and operate a Service Pier Extension (SPE) and associated support facilities in Hood Canal on the waterfront of Naval Base (NAVBASE) Kitsap Bangor, Washington (WA). The Navy will implement Alternative 2, short pier configuration, which is the preferred alternative in the October 2018 Final Supplemental Environmental Impact Statement (SEIS) for the Land-Water Interface (LWI) and SPE, NAVBASE Kitsap Bangor, WA. The Alternative 2 short pier configuration is also the environmentally preferred alternative and will fully meet the Navy's purpose and need for the proposed action.

SUPPLEMENTARY INFORMATION: The existing Service Pier will be extended by 520 feet and will require in-water as well as upland construction of

associated facilities to provide additional maintenance berthing capacity and improve associated support facilities for existing homeported and visiting submarines at NAVBASE Kitsap Bangor. The complete text of the Record of Decision (ROD) for the LWI and SPE SEIS is available on the project website at *http://www.nbkeis.com/SEIS.aspx*, along with the October 2018 Final SEIS for LWI and SPE, NAVBASE Kitsap Bangor, WA. Single copies of the ROD are available upon request by contacting: Naval Facilities Engineering Command Northwest, Attn: Ms. Kimberly Kler (LWI and SPE SEIS Program Manager), 1101 Tautog Circle, Silverdale, WA 98315–1101.

Dated: January 28, 2019.

M.S. Werner,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2019–00372 Filed 1–30–19; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m.–1:00 p.m., January 16, 2019; 1:00 p.m.–4:00 p.m., February 7, 2019; 1:00 p.m.–4:00 p.m., February 14, 2019; 9:00 a.m.–12:00 p.m. March 21, 2019.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Washington, DC 20004. The open meetings will take place in Room 7019, and the closed meeting will take place in the Boardroom.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

January 16, 2019, 10:00 a.m.–1:00 p.m., Open Meeting

The implicit and explicit recommendations captured in the National Academy of Public Administration's Defense Nuclear Facilities Safety Board Organizational Assessment and recent Inspector General recommendations concerning the effectiveness of the Defense Nuclear Facilities Safety Board. The Organizational Assessment and other related documents are available on the Board's public website at *www.dnfsb.gov.*

February 7, 2019, 1:00 p.m.–4:00 p.m., Closed Meeting

Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemptions to close a meeting described in 5 U.S.C. 552b(c)(3) and (9)(B) and 10 CFR 1704.4(c) and (h). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute, and/or be likely to significantly frustrate implementation of a proposed agency action. In this case, the deliberations will pertain to potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

February 14, 2019, 1:00 p.m.–4:00 p.m., Open Meeting

The implicit and explicit recommendations captured in the National Academy of Public Administration's Defense Nuclear Facilities Safety Board Organizational Assessment and recent Inspector General recommendations concerning the effectiveness of the Defense Nuclear Facilities Safety Board. The Organizational Assessment and other related documents are available on the Board's public website at *www.dnfsb.gov.*

March 21, 2019, 9:00 a.m.–12:00 p.m., Open Meeting

The implicit and explicit recommendations captured in the National Academy of Public Administration's Defense Nuclear Facilities Safety Board Organizational Assessment and recent Inspector General recommendations concerning the effectiveness of the Defense Nuclear Facilities Safety Board. The Organizational Assessment and other related documents are available on the Board's public website at *www.dnfsb.gov.*

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: January 29, 2019.

Bruce Hamilton,

Chairman.

[FR Doc. 2019–00806 Filed 1–29–19; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0111]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before March 4, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0111. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of

Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10).

OMB Control Number: 1845–0096.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 1,872.

Total Estimated Number of Annual Burden Hours: 2,808.

Abstract: As enacted by the Higher Education Opportunity Act (Pub. L. 110–315), the regulations in 34 CFR 668.28 provide that a proprietary institution must derive at least 10% of its annual revenue from sources other than Title IV, HEA funds, sanctions for failing to meet this requirement, and otherwise implement the statute by (1) specifying a Net Present Value (NPV) formula used to establish the revenue for institutional loans, (2) providing an administratively easier alternative to the NPV calculation, and (3) describing more fully the non-Title IV eligible programs from which revenue may be counted for 90/10 purposes. The regulations require an institution to disclose in a footnote to its audited financial statements the amounts of Federal and non-Federal revenues, by category, that it used in calculating its 90/10 ratio (see section 487(d) of the HEA). This is a request to extend the information collection that identifies the reporting burden for this regulation.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2019–00377 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0003]

Agency Information Collection Activities; Comment Request; 2019–20 National Teacher and Principal Survey (NTPS 2019–20)

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 1, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0003. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2019–20 National Teacher and Principal Survey (NTPS 2019–20).

OMB Control Number: 1850–0598.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 102,857.

Total Estimated Number of Annual Burden Hours: 51,561.

Abstract: The National Teacher and Principal Survey (NTPS), conducted biennially by the National Center for Education Statistics (NCES), is a system of related questionnaires that provides descriptive data on the context of elementary and secondary education. Redesigned from the Schools and Staffing Survey (SASS) with a focus on flexibility, timeliness, and integration with other ED data, the NTPS system allows for school, principal, and teacher characteristics to be analyzed in relation to one another. NTPS is an in-depth, nationally representative survey of first through twelfth grade public and private school teachers, principals, and schools. Kindergarten teachers in schools with at least a first grade are also surveyed. NTPS utilizes core content and a series of rotating modules to allow timely collection of important education trends as well as trend analysis. Topics covered include characteristics of teachers, principals, schools, teacher training opportunities, retention, retirement, hiring, and shortages. The request to contact districts and schools in order to begin preliminary activities for NTPS 2019–20, namely: (a) Contacting and seeking research approvals from special contact districts, where applicable, (b) notifying districts that their school(s) have been selected

for NTPS 2019–20, and (c) notifying sampled schools of their selection for the survey and verifying their mailing addresses was approved in October 2018 with a change request approved in January 2019 (OMB# 1850–0598 v.24–25). This request is to conduct NTPS 2019–20, including all of its recruitment and data collection activities.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–00503 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; Indian Education Formula Grants to Local Educational Agencies

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2019 for Indian Education Formula Grants to Local Educational Agencies, Catalog of Federal Domestic Assistance (CFDA) number 84.060A.

DATES:

Part I of Electronic Application System for Indian Education (EASIE) Applications Available: February 4, 2019.

Deadline for Transmittal of EASIE Part I: March 7, 2019.

Part II of EASIE Applications Available: April 1, 2019.

Deadline for Transmittal of EASIE Part II: May 16, 2019.

FOR FURTHER INFORMATION CONTACT: For questions about the Formula Grants program, contact Kimberly Smith, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W221, Washington, DC 20202–6335. Telephone: (202) 453–6459. Email: *Kimberly.smith@ed.gov.* For technical questions about the EASIE application and uploading documentation, contact the EDFacts Partner Support Center (PSC). Telephone: 877–457–3336 (877–HLP–EDEN). Email: *eden_OIE@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), contact the Federal Relay Service (FRS), toll free, at 1–800–877–0996 or by email at: *federalrelay@sprint.com.*

SUPPLEMENTARY INFORMATION:

Note: Applicants must meet the deadlines for both EASIE Part I and Part II to be eligible to receive a grant. Failure to submit the required supplemental documentation, described under *Content and Form of Application Submission* in section IV of this notice, by the EASIE Part I or II deadline will result in an incomplete application that will not be considered for funding. The Office of Indian Education (OIE) recommends uploading the documentation at least two days prior to each deadline date to ensure that any potential submission issues are resolved prior to the deadlines.

I. Funding Opportunity Description

Purpose of Program: The Indian Education Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs), Indian Tribes and organizations, and other eligible entities in developing elementary and secondary school programs that serve Indian students. The U.S. Department of Education (Department) funds comprehensive programs that are designed to meet the unique cultural, language, and educational needs of American Indian and Alaska Native (AI/AN) students and ensure that all students meet challenging State academic standards.

As authorized under section 6116 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA), the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal funds that are to be used exclusively for Indian students. Instructions for submitting an integration of education and related services plan are included in the EASIE, which is described under *Application and Submission Information* in section IV of this notice.

Note: Under the Formula Grants program, all applicants are required to develop proposed projects in open consultation, including through public hearings held to provide a full opportunity to understand the program and to offer recommendations regarding the program (section 6114(c)(3)(C) of the ESEA), with parents of Indian children and teachers of Indian children, representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school, Indian organizations (IOs), and, if appropriate, Indian students from secondary schools. LEA applicants are required to develop proposed projects with the participation and written approval of a parent committee whose membership includes parents and family members of Indian children in the LEA's schools; representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school; teachers in the schools; and, if appropriate, Indian students attending secondary schools of the LEA (section 6114(c)(4) of the ESEA). The majority of the parent committee members must be parents and family members of Indian children (section 6114(c)(4) of the ESEA).

Definitions: The following definition is from section 6112(d)(3) of the ESEA:

Indian community-based organization (ICBO) means any organization that (1) is composed primarily of Indian parents, family members and community members, tribal government educational officials, and tribal members, from a specific community; (2) assists in the social, cultural, and educational development of Indians in such community; (3) meets the unique cultural, language, and academic needs of Indian students; and (4) demonstrates organizational and administrative capacity to manage the grant.

Statutory Hiring Preference:

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to IOs and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

(b) For purposes of this section, an Indian is a member of any federally recognized Indian Tribe (25 U.S.C. 1452(b)).

Program Authority: 20 U.S.C. 7421, *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: $105,381,000.

Estimated Range of Awards: $4,000 to $3,254,999.

Estimated Average Size of Awards: $81,062.

Estimated Number of Awards: 1,300.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities are eligible under this program: Certain LEAs, including charter schools authorized as LEAs under State law, as prescribed by section 6112(b) of the ESEA; certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior (BIE), as prescribed by section 6113(d) of the ESEA; Indian Tribes and IOs under certain conditions, as prescribed by section 6112(c) of the ESEA; and ICBOs, as prescribed by section 6112(d) of the ESEA. Consortia of two or more eligible entities are also eligible under certain circumstances, as prescribed by section 6112(a)(4) of the ESEA.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* Section 6114(c)(1) of the ESEA requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for services described in this application, and not to supplant such funds.

IV. Application and Submission Information

1. *How to Request an Application Package:* You can obtain a log-in and password for the electronic application for grants under this program by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are located in the Getting Started page in the EDFacts System Portal.

a. *Supplementary Documentation:* The EASIE application requires submission of the following supplementary documentation in electronic Portable Document Format (PDF):

(i) In EASIE Part I, applicants that are Tribes, IOs, or ICBOs must submit the appropriate ''Applying in Lieu of the LEA'' agreement form with their application to verify their eligibility no later than March 7, 2019 (which is the closing date of EASIE Part I). Each separate eligibility document is identified by applicant-type as either: Tribe Applying in Lieu of an LEA Agreement; IO Agreement; or ICBO Agreement. These are available on the Getting Started page in the EDFacts System Portal as downloadable documents. The details of the verification process, which are necessary to meet the statutory eligibility requirements for Tribes, IOs, and ICBOs, are in the application package.

(ii) In EASIE Part I, an applicant that is the lead applicant for a consortium must use the consortium agreement that is available on the Getting Started page in the EDFacts System Portal as a downloadable document and upload it no later than March 7, 2019.

(iii) In EASIE Part II, for an applicant that is an LEA or a consortium of LEAs, the EASIE application requires the electronic PDF submission of the Indian Parent Committee Approval (PCA) form no later than the deadline for transmittal of EASIE Part II, which is May 16, 2019. Applicants are encouraged to begin planning parent committee meetings early to ensure parent committee signatures are obtained before EASIE Part II closes. The form is available on the Getting Started page in the EDFacts System Portal.

3. *Submission Dates and Times:* Part I of the Formula Grant EASIE Applications Available: February 4, 2019.

Deadline for Transmittal of EASIE Part I: March 7, 2019, 8:00 p.m., Washington, DC time.

Part II of the Formula Grant EASIE Applications Available: April 1, 2019.

Deadline for Transmittal of EASIE Part II: May 16, 2019, 8:00 p.m., Washington, DC time.

Submit applications for grants under this program electronically using EASIE located in the EDFacts System Portal. For information (including dates and times) about how to submit your application, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Not more than five percent of the funds provided to a grantee may be used for administrative costs (section 6115(d) of the ESEA). We reference regulations outlining other funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

If you are currently registered with SAM, you may not need to make any

changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

7. *Other Submission Requirements:*

a. *Electronic Submission of Applications.*

Electronic Application System for Indian Education (EASIE): EASIE is an electronic application found in the EDFacts System Portal at *https://eden.ed.gov.* It is divided into two parts—EASIE Part I and EASIE Part II.

EASIE Part I, student count, provides the appropriate data-entry screens to submit your verified, aggregated, Indian student count totals. All applicants must submit a current Indian student count for FY 2019. Applicants must use the Indian Student Eligibility Certification Form (ED 506 Form) to document eligible Indian students; however, BIE schools may use either the Indian School Equalization Program (ISEP) count or the ED 506 Form count to verify their Indian student counts. Applicants must protect the privacy of all individual data collected and only report aggregated data to the Secretary.

Applicants that verify their Indian student count with the ED 506 Form must document their Indian student counts by completing the following: (1) Each year, the applicant must verify there is a valid ED 506 Form for each Indian child included in the count; (2) all ED 506 Forms included in the count must be completed, signed, and dated by the parent, and be on file; (3) the applicant must maintain a copy of the student enrollment roster(s) covering the same period of time indicated in the application as the ''count period''; and (4) each Indian child included in the count must be listed on the LEA's enrollment roster(s) for at least one day during the count period.

BIE schools that enter an ISEP count to verify their Indian student count must use the most current Indian student count certified by the BIE.

Once an Indian child is determined to be eligible to be counted for such grant award, the applicant must maintain a record of such determination and must not require a new or duplicate determination or form to be made for such child for a subsequent application for a grant under this program.

Applicants must also indicate the time span for the project objectives and corresponding activities and services for AI/AN students. Applicants can choose to set objectives that remain the same for up to four years in order to facilitate data collection and enhance long-term planning.

In EASIE Part II, all applicants must—

(1) Select the type of program being submitted as either regular formula grant program, formula grant project consolidated with a title I schoolwide program, or integration of services under section 6116 of the ESEA;

(2) Select the grade levels offered by the LEA or BIE school;

(3) Identify, from a list of possible Department grant programs (*e.g.,* ESEA title I), the programs in the LEA that are currently coordinated with a title VI project, or with which the school district plans to coordinate during the project year, in accordance with section 6114(c)(5) of the ESEA, and describe the coordination of services for AI/AN students with those grant programs;

(4) Describe the professional development opportunities that will be provided as part of your coordination of services to ensure that teachers and other school professionals who are *new* to the Indian community are prepared to work with Indian children, and that all teachers who will be involved in programs assisted by this grant have been properly trained to carry out such programs, as required by section 6114(b)(5);

(5) Provide information on how the State assessment data of all Indian students (not just those served) are used. Indicate how you plan to disseminate information to the Indian community, parent committee, and Indian Tribes whose children are served by the LEA and how assessment data from the previous school year (SY) were used, as required by section 6114(b)(6) of the ESEA;

(6) Indicate when the public hearing was held for SY 2019, as required by section 6114(c)(3)(C).

(7) For an applicant that is an LEA, BIE school, or a consortium of LEAs or BIE schools, describe the process the applicant used to meaningfully collaborate with Indian Tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program and the actions taken as a result of such collaboration (section 6114(b)(7));

(8) Identify specific project objectives that will further the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement standards (section 6115(b)), and identify the data sources that will be used to measure progress towards meeting project objectives;

(9) For an LEA that selects a schoolwide application, identify how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program (section 6115(c)(3));

(10) Submit a program budget based on the estimated grant amount that the EASIE system calculates from the Indian student count you submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or reduction in an applicant's student count. An applicant whose award amount increases or decreases more than $5,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. If an applicant's award amount increases or decreases by less than $5,000, a budget update is not required. For an applicant that receives an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories;

(11) As required by section 427 of the General Education Provisions Act (GEPA), describe the steps the applicant proposes to take to ensure equitable access to, and participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age; and

(12) If needed, provide additional comments to assist OIE in the review of the application.

Registration for Formula Grant EASIE: Current, former, and new applicants interested in submitting a Formula Grant EASIE application must register for Formula Grant EASIE. Prior to the opening of EASIE Part I, EDFacts PSC will send a broadcast to prior year grantees and new prospective applicants that have contacted EDFacts PSC and registered for EASIE. All recipients who receive the EDFacts PSC's broadcast will be asked to respond to EDFacts PSC directly to confirm their intent to register and make updates to the registration information. Entities are strongly encouraged to respond to the email to ensure that any potential registration issues are resolved prior to the deadline for the submission of an application. Entities that do not have an

active registration or are new applicants should contact the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT** to register any time before the EASIE Part I application deadline date. Registration *does not* serve as the entity's grant application. For assistance registering, contact the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Certification for Formula Grant EASIE: The applicant's authorized representative, who must be legally authorized by the applicant to approve the application, must certify EASIE Part I and Part II. Only users with the role type ''managing user'' or ''certifying official user'' in the EASIE system can certify an application. Each applicant should identify at least three system users, one for each of the following: Project director, authorized representative, and another party designated to answer questions in the event the project director is unavailable. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

b. *Submission of Paper Applications by Mail.*

We discourage paper applications, but if electronic submission is not possible (*e.g.,* you do not have access to the internet), you must provide a written statement that you intend to submit a paper application. Send this written statement no later than two weeks before the application deadline date for EASIE Part I (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday).

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date of EASIE Part I. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date of EASIE Part I. If you email the written statement, it must be sent no later than two weeks before the application deadline date to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Address and mail or fax your statement to: Kimberly Smith, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW, Room 3W221, Washington, DC 20202–6335. FAX: (202) 205–0606.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

You must mail the original and two copies of your application, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW, Room 3W221, Washington, DC 20202–6335.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date for EASIE Part I or Part II.

c. *Submission of Paper Applications by Hand Delivery.*

If you are submitting a paper application, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW, Room 3W227, Washington, DC 20202–6335.

The program office accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The program office will mail you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the program office at (202) 260–3774.

V. Grant Administration Information

1. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice. We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice.

3. *Reporting:* (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit an annual performance report (APR) using the EDFacts System Portal at *https://eden.ed.gov,* including financial information, as directed by the Secretary, within 90 days after the close of the grant year. The APR is located within the EDFacts System Portal under the EASIE Part III tab. Prior to the system being open to users, grantees will receive an email from the EDFacts PSC identifying the date that the APR will be available to grantees and the deadline for its transmission.

(c) Under 34 CFR 75.250(b), the Secretary may approve a data collection period for a grant for up to 72 months after the end of the project period and may provide a grantee with additional funding for the sole purpose of collecting, analyzing, and reporting performance measurement data regarding the project.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) The percentage of AI/AN students in grades

four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AI/AN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AI/AN students in grades three through eight meeting State achievement standards by scoring at or above the proficient level in reading and mathematics on State assessments; (4) the difference between the percentage of AI/AN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AI/AN students who graduate from high school as measured by the four-year adjusted cohort graduation rate; and (6) the percentage of funds used by grantees prior to award close-out.

5. *Integrity and Performance System:* If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 28, 2019.

Frank Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019–00534 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0006]

Agency Information Collection Activities; Comment Request; Cancer Treatment Deferment

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

DATES: Approval by the OMB has been requested by January 24, 2019. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before April 1, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0006. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Cancer Treatment Deferment.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 5,000.

Total Estimated Number of Annual Burden Hours: 833.

Abstract: The Department of Education (Department) is requesting an emergency clearance for a new information collection. This collection will be used to obtain information from federal student loan borrowers to

determine eligibility for a deferment of repayment of their federal student loan while receiving cancer treatment and for the 6-month period after such treatment. Section 309 of the Consolidated Appropriations Act, 2019, included a provision for the Department to implement this new basis for deferment. It was effective immediately upon enactment.

Additional Information: An emergency clearance approval for the use of the system is described below due to the following conditions:

On September 28, 2018, the President signed the Consolidated Appropriations Act, 2019 into law. Section 309 of the law included a new deferment for Direct Loan, FFEL Program, and Perkins Loan borrowers who are receiving cancer treatment and for the 6-month period following such treatment. The law was immediately effective, meaning that borrowers can immediately request and, if eligible, should receive the deferment. Because the law provided no time to implement before the deferment became effective, the Department requests that OMB allow the Department to clear the collection associated with the implementation for the Cancer Treatment Deferment using the emergency clearance procedures of the Paperwork Reduction Act of 1995, outlined in 42 U.S.C. 3507(j) by January 24, 2019.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–00370 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0008]

Agency Information Collection Activities; Comment Request; Mathematics and Science Partnerships Program: Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before April 1, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0008. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Bryan Keohane, 202–260–9738.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Mathematics and Science Partnerships Program: Annual Performance Report.

OMB Control Number: 1810–0669.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 450.

Total Estimated Number of Annual Burden Hours: 4,500.

Abstract: Implemented under the No Child Left Behind Act of 2001, Title II, Part B, the Mathematics and Science Partnerships (MSP) program is a formula grant program strategically designed to improve the content knowledge of teachers and the academic performance of students in mathematics and science. By funding collaborative partnerships between science, technology, engineering, and mathematics (STEM) departments at institutions of higher education (IHEs), and high-need school districts, the MSP program enables the delivery of intensive, content-rich professional development intended to improve classroom instruction and, ultimately, to raise student achievement in math and science. Because MSP is a formula grant program, the size of individual state awards is based on student population and poverty rates, with no state receiving less than one half of one percent of the total appropriation. Each state is then responsible for administering a competitive grant making process to determine the distribution of funds across proposed MSP projects. The program office is seeking to renew this collection to allow it to continue to collect Annual Performance Reports from those grantees that will need to seek a no cost extension.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–00485 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0002]

Agency Information Collection Activities; Comment Request; Health Education Assistance Loan (HEAL)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 1, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0002. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Health Education Assistance Loan (HEAL).

OMB Control Number: 1845–0126.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 5,491.

Total Estimated Number of Annual Burden Hours: 2,758.

Abstract: This is a request for an extension of the information collection for forms HEAL 502–1 and 502–2, HEAL repayment schedules and form HEAL 512, Holder's Report on HEAL program loans. The forms 502–1 and 502–2 provide the borrowers with any updated repayment schedule including the cost of the loan, number and amount of payments with Truth-in-Lending disclosures. The form 512 is prepared quarterly and provides information on the status of outstanding loans such as the number of borrowers by stage of loan life-cycle, repayment status and the corresponding dollars.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–00376 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0115]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Readmission for Servicemembers

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before March 4, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0115. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Readmission for Servicemembers.

OMB Control Number: 1845–0095.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 4,570.

Total Estimated Number of Annual Burden Hours: 1,531.

Abstract: The Department of Education is requesting an extension of the current information collection. These regulations identify the requirements under which an institutions must readmit servicemembers with the same academic status they held at the institutions when they last attended or were accepted for attendance. The regulations require institutions to charge readmitted servicemembers, for the first academic year of their return, the same institutions charges they were charged for the academic year during which they left the institution to fulfill a service requirement in the uniformed services.

Dated: January 28, 2019.

Kate Mullan,

Acting Director, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–00378 Filed 1–30–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–41–000.
Applicants: Innovative Solar 54, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Innovative Solar 54, LLC.
Filed Date: 12/28/18.
Accession Number: 20181228–5198.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: EG19–42–000.
Applicants: CCP–PL Lessee IV, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of CCP–PL Lessee IV, LLC.
Filed Date: 12/28/18.
Accession Number: 20181228–5199.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: EG19–43–000.
Applicants: Innovative Solar 67, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Innovative Solar 67, LLC.
Filed Date: 12/28/18.
Accession Number: 20181228–5201.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: EG19–44–000.
Applicants: CCP–PL Lessee V, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of CCP–PL Lessee V, LLC.
Filed Date: 12/28/18.
Accession Number: 20181228–5202.
Comments Due: 5 p.m. ET 1/18/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2721–008.
Applicants: El Paso Electric Company.
Description: Updated Market Power Analysis of El Paso Electric Company.
Filed Date: 12/28/18.
Accession Number: 20181228–5167.
Comments Due: 5 p.m. ET 2/26/19.

Docket Numbers: ER10–2881–033; ER10–1874–008; ER10–2882–035; ER10–2883–033; ER10–2884–033; ER10–2885–033; ER16–2509–004; ER17–2400–005; ER17–2401–005; ER17–2403–005; ER17–2404–005; ER19–9–002.
Applicants: Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Power Company, SP Butler Solar, LLC, SP Decatur Parkway Solar, LLC, SP Pawpaw Solar, LLC, SP Sandhills Solar, LLC, Rutherford Farm, LLC, Mankato Energy Center II, LLC, Mankato Energy Center, LLC.
Description: Notification of Non-Material of Change in Status of Alabama Power Company, et al.
Filed Date: 12/28/18.
Accession Number: 20181228–5272.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER16–2527–002; ER10–1333–013; ER12–1502–005; ER12–1504–005; ER12–1946–013; ER15–190–010; ER17–2–003; ER17–543–007; ER18–1343–004.
Applicants: Caprock Solar I LLC, Cimarron Windpower II, LLC, Duke Energy Beckjord, LLC, Duke Energy Commercial Enterprises, Inc., Duke Energy Renewable Services, LLC, Duke Energy SAM, LLC, Frontier Windpower, LLC, Ironwood Windpower, LLC, Carolina Solar Power, LLC.
Description: Triennial Market Power Update for SPP Region of Duke SPP MBR Sellers.
Filed Date: 12/28/18.
Accession Number: 20181228–5154.
Comments Due: 5 p.m. ET 2/26/19.

Docket Numbers: ER19–19–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance Filing Pursuant to the Commission's November 29, 2018 Order to be effective 12/1/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5297.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–713–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: MAIT submits Interconnection Agreement (IA) SA No. 4988 to be effective 2/27/2019.
Filed Date: 12/28/18.
Accession Number: 20181228–5122.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–714–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Transmission Service Agreement No. 411 to be effective 1/1/2019.
Filed Date: 12/28/18.
Accession Number: 20181228–5138.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–715–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits three ECSAs, Service Agreement Nos. 5139, 5199, and 5200 to be effective 2/26/2019.
Filed Date: 12/28/18.
Accession Number: 20181228–5165.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–716–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: ESM Construction Agreement—Milford to be effective 12/20/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5196.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–717–000.
Applicants: AEP Generating Company.
Description: § 205(d) Rate Filing: AEP Generating Company Unit Power Agreements to be effective 1/1/2019.
Filed Date: 12/28/18.
Accession Number: 20181228–5215.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–719–000.
Applicants: Calpine Construction Finance Company, L.P.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5226.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–720–000.
Applicants: Calpine Gilroy Cogen, L.P.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.

Accession Number: 20181228–5227.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–721–000.
Applicants: Calpine Mid-Atlantic Marketing, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5234.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–722–000.
Applicants: Calpine Power America—CA, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5235.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–723–000.
Applicants: CCFC Sutter Energy, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5238.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–724–000.
Applicants: Creed Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5243.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–725–000.
Applicants: Delta Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5246.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–726–000.
Applicants: Geysers Power Company, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5247.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–727–000.
Applicants: Gilroy Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5248.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–728–000.
Applicants: Goose Haven Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5253.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–729–000.
Applicants: Hermiston Power, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5258.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–730–000.
Applicants: Los Esteros Critical Energy Facility, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5263.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–731–000.
Applicants: Los Medanos Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5267.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–732–000.
Applicants: Metcalf Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5269.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–733–000.
Applicants: Morgan Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5270.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–734–000.
Applicants: Otay Mesa Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5271.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–735–000.
Applicants: Pastoria Energy Facility L.L.C.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5287.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–736–000.
Applicants: Pine Bluff Energy, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5281.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–737–000.
Applicants: RockGen Energy, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5282.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–738–000.
Applicants: South Point Energy Center, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/29/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5283.
Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–739–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–12–31_SA 3226 CapX Fargo 3-Riverview T–T IA to be effective 12/31/2018.
Filed Date: 12/28/18.
Accession Number: 20181228–5284.
Comments Due: 5 p.m. ET 1/18/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 28, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00531 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–572–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 012219 Reservation of Capacity to be effective 3/1/2019.
Filed Date: 1/22/19.
Accession Number: 20190122–5069.
Comments Due: 5 p.m. ET 2/4/19.

Docket Numbers: RP19–573–000.
Applicants: Southern LNG Company, L.L.C.
Description: § 4(d) Rate Filing: Dredging Surcharge Cost Adjustment—2019 to be effective 3/1/2019.
Filed Date: 1/22/19.
Accession Number: 20190122–5100.
Comments Due: 5 p.m. ET 2/4/19.

Docket Numbers: RP19–574–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Jan–Mar 2019) to be effective 1/23/2019.
Filed Date: 1/22/19.
Accession Number: 20190122–5200.
Comments Due: 5 p.m. ET 2/4/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00539 Filed 1–30–19; 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: ER15–1456–007; ER10–2615–012; ER10–2934–013; ER10–2959–014; ER11–2235–002; ER11–3859–018; ER11–4634–007; ER13–450–005; ER14–1699–008; ER15–1457–007; ER16–999–007; ER17–1605–001; ER17–436–006; ER17–437–009; ER18–920–002.
Applicants: Beaver Falls, L.L.C., Chambers Cogeneration, Limited Partnership, Dighton Power, LLC, Dominion Energy Fairless, LLC, Dominion Energy Manchester Street, Inc., Greenleaf Energy Unit 1 LLC, Hazleton Generation LLC, Logan Generating Company, L.P., Marco DM Holdings, L.L.C., Marcus Hook Energy, L.P., Marcus Hook 50, L.P., Milford Power, LLC, Plum Point Energy Associates, LLC, Plum Point Services Company, LLC, Syracuse, L.L.C.
Description: Notice of Change in Status of the SEG MBR Entities.
Filed Date: 1/15/19.
Accession Number: 20190115–5285.
Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–448–001.
Applicants: Appalachian Power Company.
Description: Tariff Amendment: OATT-Revise Attachment K, AEP Texas Inc. Rate Update Amendment to be effective 12/31/9998.
Filed Date: 12/20/18.
Accession Number: 20181220–5215.
Comments Due: 5 p.m. ET 1/24/19.

Docket Numbers: ER19–457–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Amended Filing—Otter Tail Power Company Network Customer Transmission Credits to be effective 2/1/2019.
Filed Date: 1/16/19.
Accession Number: 20190116–5105.
Comments Due: 5 p.m. ET 2/6/19.

Docket Numbers: ER19–824–000.
Applicants: Florida Power & Light Company.
Description: Tariff Cancellation: Notice of Termination of FPL-Vero Beach NITSA No. 264 to be effective 12/17/2018.
Filed Date: 1/16/19.
Accession Number: 20190116–5123.
Comments Due: 5 p.m. ET 2/6/19.

Docket Numbers: ER19–825–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment C to Enhance Available Flowgate Capacity Calculations to be effective 3/18/2019.
Filed Date: 1/16/19.
Accession Number: 20190116–5137.
Comments Due: 5 p.m. ET 2/6/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00526 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–6–002]

FirstEnergy Service Company; Notice of Filing

Take notice that on January 18, 2019, FirstEnergy Service Company submitted a Notice of Non-Material Change in Circumstances pursuant to the order issued by the Federal Energy Regulatory Commission (Commission), in the above captioned proceeding, on February 2, 2018.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

[1] *FirstEnergy Service Company,* 162 FERC ¶ 61,087 (2018).

become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 8, 2019.

Dated: January 23, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00515 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–1–000]

Commission Information Collection Activities (FERC–732); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–732 (Electric Rate Schedules and Tariffs: Long-Term Firm Transmission Rights in Organized Electricity Markets) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. On October 23, 2018, the Commission published a Notice in the **Federal Register** in Docket No. IC19–1–000 requesting public comments. The Commission received no public comment.

DATES: Comments on the collection of information are due March 4, 2019.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0245, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov. Attention:* Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–1–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–732, Electric Rate Schedules and Tariffs: Long-Term Firm Transmission Rights in Organized Electricity Markets.

OMB Control No.: 1902–0245.

Type of Request: Three-year extension of the FERC–732 information collection requirement with no changes to the current reporting requirements.

Abstract: 18 CFR part 42 provides the reporting requirements of FERC–732 as they pertain to long-term transmission rights. To implement section 1233 [1] of the Energy Policy Act of 2005 (EPAct 2005),[2] the Commission requires each transmission organization that is a public utility with one or more organized electricity markets to make available long-term firm transmission rights that satisfy each of the Commission's guidelines.[3]

The FERC–732 regulations require that transmission organizations (that are public utilities with one or more organized electricity markets) choose one of two ways to file:

- File tariff sheets making long-term firm transmission rights available that are consistent with each of the guidelines established by FERC.
- File an explanation describing how their existing tariffs already provide long-term firm transmission rights that are consistent with the guidelines.

Additionally, the Commission requires each transmission organization to make its transmission planning and expansion procedures and plans available to the public. FERC–732 enables the Commission to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the FPA, the Department of Energy Organization Act (DOE Act), and EPAct 2005.

Type of Respondents: Public utility with one or more organized electricity markets

Estimate of Annual Burden: [4] The Commission estimates the total burden and cost [5] for this information collection as follows.

[1] 16 U.S.C. 824.

[2] 6 U.S.C. 824Q.

[3] 18 CFR 42.1(d).

[4] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[5] FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2018 FERC average annual salary plus benefits ($164,820/year or $79/hour).

FERC–732—ELECTRIC RATE SCHEDULES AND TARIFFS: LONG-TERM FIRM TRANSMISSION RIGHTS IN ORGANIZED ELECTRICITY MARKETS

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Total annual burden hours & total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Public utility with one or more organized electricity markets.	1	1	1	1,180 hrs.; $93,220 ...	$93,220

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00453 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–46–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: Application for order pursuant to Section 203 of the Federal Power Act of Orange and Rockland Utilities, Inc.

Filed Date: 1/15/19.

Accession Number: 20190115–5229.

Comments Due: 5 p.m. ET 2/5/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2437–012.

Applicants: Arizona Public Service Company.

Description: Supplement to December 28, 2018 Triennial Market Power Update of Arizona Public Service Company.

Filed Date: 1/11/19.

Accession Number: 20190111–5209.

Comments Due: 5 p.m. ET 2/26/19.

Docket Numbers: ER15–1218–007.

Applicants: Solar Star California XIII, LLC.

Description: Compliance filing: Supplemental Notice of Tariff Updates to be effective 1/16/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5192.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER16–1157–001.

Applicants: Kingbird Solar B, LLC.

Description: Compliance filing: Supplemental Notice of Tariff Updates to be effective 1/16/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5193.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER17–1522–001; ER17–1324 002.

Applicants: Playa Solar 1, LLC, Playa Solar 2, LLC.

Description: Notice of Non-Material Change in Status of Playa Solar 1, LLC, et al.

Filed Date: 1/11/19.

Accession Number: 20190111–5200.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER18–2410–001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2019–01–15 Deficiency Filing in ER18–2410 to be effective 1/1/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5145.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–358–000; ER19–359–000.

Applicants: DG Whitefield LLC.

Description: Supplement to November 16, 2018 DG Whitefield LLC, et al. tariff filings.

Filed Date: 1/11/19.

Accession Number: 20190111–5213.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–752–000.

Applicants: East Avenue Energy, LLC.

Description: Report Filing: Amended MBR Cancellation Filing to be effective N/A.

Filed Date: 1/15/19.

Accession Number: 20190115–5119.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–806–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: 3 Phases Renewables (OR D.A.) Rev 1 to be effective 1/1/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5000.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–807–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–ETEC E Burgess DPA to be effective 12/22/2018.

Filed Date: 1/15/19.

Accession Number: 20190115–5001.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–808–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI submits two ECSAs, Service Agreement Nos. 5136 and 5201 with Ohio Edison to be effective 3/19/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5101.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–809–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–01–15_Rate Schedule 51_BREC–HMPL JPZ Revenue Allocation Agreement to be effective 2/1/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5123.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–810–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: First Amendment to Transition Services Agreement Filing to be effective 1/2/2019.

Filed Date: 1/15/19.

Accession Number: 20190115–5125.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER19–811–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–01–15_Annual Schedule 31 Update to be effective 4/1/2019.

Filed Date: 1/15/19.
Accession Number: 20190115–5126.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–812–000.
Applicants: Macho Springs Power I, LLC.
Description: § 205(d) Rate Filing: Amendment to Market-Based Rate Notice of Change in Status to be effective 12/28/2018.
Filed Date: 1/15/19.
Accession Number: 20190115–5127.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–813–000.
Applicants: Broken Bow Wind II, LLC.
Description: § 205(d) Rate Filing: Notice of Change in Status and MBR Tariff Updates to be effective 1/16/2019.
Filed Date: 1/15/19.
Accession Number: 20190115–5152.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–815–000.
Applicants: South Carolina Electric & Gas Company.
Description: § 205(d) Rate Filing: Southeastern Power Admin NITSA to be effective 1/1/2019.
Filed Date: 1/15/19.
Accession Number: 20190115–5168.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–816–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Las Lomas Wind Energy Interconnection Agreement to be effective 12/22/2018.
Filed Date: 1/15/19.
Accession Number: 20190115–5171.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–817–000.
Applicants: Public Service Company of New Hampshire.
Description: Tariff Cancellation: Cancellation of Essential Power Design, Engineering, and Construction Agreement to be effective 1/15/2019.
Filed Date: 1/15/19.
Accession Number: 20190115–5198.
Comments Due: 5 p.m. ET 2/5/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–8–000.
Applicants: Rockland Electric Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Rockland Electric Company.
Filed Date: 1/15/19.
Accession Number: 20190115–5206.
Comments Due: 5 p.m. ET 2/5/19.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH19–7–000.
Applicants: Starwood Energy Group Global, L.L.C.
Description: Starwood Energy Group Global, L.L.C. submits FERC 65–B Notice of Change in Facts of Waiver Notification.
Filed Date: 1/11/19.
Accession Number: 20190111–5202.
Comments Due: 5 p.m. ET 2/1/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00520 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–6–000]

Commission Information Collection Activities (FERC–914); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–914 (Cogeneration and Small Power Production—Tariff Filings).

DATES: Comments on the collection of information are due April 1, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–6–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–914, Cogeneration and Small Power Production—Tariff Filings.
OMB Control No.: 1902–0231.
Type of Request: Three-year extension of the FERC–914 information collection requirements with no changes to the current reporting requirements.

Abstract: Section 205(c) of the Federal Power Act (FPA) and 18 CFR 292 require that every public utility have all of its jurisdictional rates and tariffs on file with the Commission and make them available for public inspection, within such time and in such form as the Commission may designate. Section 205(d) of the FPA requires that every public utility must provide notice to the Commission and the public of any changes to its jurisdictional rates and tariffs, file such changes with the Commission, and make them available for public inspection, in such manner as directed by the Commission. In addition, FPA section 206 requires the Commission, upon complaint or its own motion, to modify existing rates or services that are found to be unjust, unreasonable, unduly discriminatory or preferential. FPA section 207 requires the Commission upon complaint by a state commission and a finding of insufficient interstate service, to order the rendering of adequate interstate service by public utilities, the rates for which would be filed in accordance with FPA sections 205 and 206.

In Order Nos. 671 and 671–A,[1] the Commission revised its regulations that

[1] *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order No.

govern qualifying small power production and cogeneration facilities. Among other things, the Commission eliminated certain exemptions from rate regulation that were previously available to qualifying facilities (QFs). New qualifying facilities may need to make tariff filings if they do not meet the exemption requirements.

FERC implemented the Congressional mandate of the Energy Policy Act of 2005 (EPAct 2005) to establish criteria for new qualifying cogeneration facilities by: (1) Amending the exemptions available to qualifying facilities from the FPA and from Public Utility Holding Company Act (PUHCA) [resulting in the burden imposed by FERC–914, the subject of this notice]; (2) ensuring that these facilities are using their thermal output in a productive and beneficial manner; that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used fundamentally for industrial, commercial, residential or industrial purposes; and there is continuing progress in the development of efficient electric energy generating technology; (3) amending the FERC Form 556 [2] to reflect the criteria for new qualifying cogeneration facilities; and (4) eliminating ownership limitations for qualifying cogeneration and small power production facilities. The Commission satisfied the statutory mandate and its continuing obligation to review its policies encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities, and equitable rates for energy customers.

Type of Respondents: New qualifying facilities and small power producers that do not meet Commission exemption criteria

Estimate of Annual Burden: [3] The Commission estimates the annual public reporting burden for the information collection as:

FERC–914—COGENERATION AND SMALL POWER PRODUCTION—TARIFF FILINGS

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response ($) [4]	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FPA Section 205 Filings.	35	1	35	183 hrs.; $14,457 ..	6,405 hrs.; $505,995	$14,457
Electric Quarterly Reports (initial).	0	0	0	230 hrs.; $18,170 ..	0 hrs.; $0	0
Electric Quarterly Reports (later).	35	4	140	6 hrs.; $474	840 hrs,; $66,360	1,896
Change of Status	10	1	10	3 hrs.; $237	30 hrs.; $2,370	237
Total	.....	.....	185	.....	7,275 hrs.; $574,725	.....

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 10, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00454 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

671, 71 FR 7852 (2/15/2006), FERC Stats. & Regs. ¶ 31,203 (2006); and *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order 671–A, 71 FR 30585 (5/30/2006), in Docket No. RM05–36.

[2] The FERC–556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility) is cleared separately as OMB Control No. 1902–0075 and is not a subject of this notice.

[3] Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[4] FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2018 FERC average annual salary plus benefits ($164,820/year or $79/hour).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Citation Change for Commision Rulemakings

Take notice that on January 1, 2019, the Commission will be changing its official citation format for orders in rulemaking proceedings. Because Commission orders in rulemaking proceedings currently are published in a variety of sources (posting on eLibrary and the Commission website, and distribution through LexisNexis, Westlaw, Commerce Clearing House, and the **Federal Register**), adoption of a standard citation format will permit citation uniformity across all sources and simplify the citation of Commission rulemakings.

Accordingly, citations to rulemakings must use the FERC citation assigned by the Commission when issuing orders, *e.g.,* 162 FERC ¶ 61,001, at P 1 (2018). The FERC citation format alone suffices for future rulemaking proceedings, and also for those past rulemaking proceedings in which the paragraphs of the order are individually numbered and can be used for pinpoint citation. If, however, a pinpoint page citation is provided to a past rulemaking proceeding that does not contain individual paragraph numbers, both the FERC citation and a pinpoint citation to FERC Stats. & Regs. (or to the **Federal Register**) should be used.[1]

Dated: December 31, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00461 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

[1] The Commission encourages participants, wherever possible, to provide in their pleadings pinpoint citations to the relevant paragraphs or pages.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the 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. CP15–554–000	1–10–2018	Richard H. Allan III.
2. EC18–63–000	1–18–2019	FERC Staff.[1]
Exempt:		
1. CP17–21–000, CP17–21–001	1–9–2018	FERC Staff.[2]
2. CP17–21–000, CP17–21–001	1–9–2018	FERC Staff.[3]
3. CP17–101–000	1–16–2019	New Jersey Senator Christopher Bateman.

[1] Memo to the Record dated January 18, 2019.
[2] Telephone Log reporting call on November 27, 2018 to Jefferson County, Texas.
[3] Telephone Log reporting call on November 16, 2018 to the City of Port Arthur Planning and Zoning Department.

Dated: January 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00457 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR19–28–000.
Applicants: Columbia Gas of Maryland, Inc.
Description: Tariff filing per 284.123(b),(e)/: CMD Rates Effective 1/1/2019.
Filed Date: 1/8/19.
Accession Number: 201901085086.
Comments/Protests Due: 5 p.m. ET 1/29/19.

Docket Number: PR19–16–001.
Applicants: Lee 8 Storage Partnership.
Description: Tariff filing per 284.123(b),(e)+(g): Settlement Proposal to be effective 11/14/2018.
Filed Date: 1/11/19.
Accession Number: 201901115113.
Comments Due: 5 p.m. ET 2/1/19.
284.123(g) Protests Due: 5 p.m. ET 2/1/19.

Docket Numbers: RP19–357–001.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Compliance filing: Compliance Filing Pursuant to Order on RP19–357 to be effective 12/1/2018.
Filed Date: 1/10/19.
Accession Number: 20190110–5032.
Comments Due: 5 p.m. ET 1/22/19.

Docket Numbers: RP19–554–000.
Applicants: Dominion Energy Carolina Gas Transmission.
Description: Compliance filing DECG—2018 Interruptible Revenue Sharing Report.
Filed Date: 1/10/19.
Accession Number: 20190110–5002.
Comments Due: 5 p.m. ET 1/22/19.

Docket Numbers: RP19–555–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: § 4(d) Rate Filing: Assignment of Non-Conforming Agreement to be effective 1/11/2019.
Filed Date: 1/10/19.
Accession Number: 20190110–5129.
Comments Due: 5 p.m. ET 1/22/19.

Docket Numbers: RP19–556–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Columbia to Energy Plus 960084 to be effective 1/12/2019.
Filed Date: 1/11/19.
Accession Number: 20190111–5022.
Comments Due: 5 p.m. ET 1/23/19.

Docket Numbers: RP19–557–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Neg Rate Agmts (QEP 36601 to Aethon 50488 and SS Aethon 37657 from QEP) to be effective 1/11/2019.
Filed Date: 1/11/19.
Accession Number: 20190111–5052.
Comments Due: 5 p.m. ET 1/23/19.

Docket Numbers: RP19–558–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Mex Gas Supply, S.L. Negotiated Rate Nonconforming Agmt to be effective 12/1/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5163.

Comments Due: 5 p.m. ET 1/23/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 15, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00538 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Additional Notice of Electric Quarterly Report Users Group Meeting

	Docket Nos.
Electric Quarterly Report User Group Meeting	AD19–9–000
Filing Requirements for Electric Utility Service Agreements	RM01–8–000
Electricity Market Transparency Provisions of Section 220 of the Federal Power Act	RM10–12–000
Revisions to Electric Quarterly Report Filing Process	RM12–3–000
Electric Quarterly Reports	ER02–2001–000

The Federal Energy Regulatory Commission (Commission) hereby notifies interested persons that a notice was issued on December 4, 2018, in Docket No. AD19–9–000, that Commission staff will hold an Electric Quarterly Report (EQR) Users Group meeting on February 14, 2019.[1] On January 11, 2019, a supplemental notice for the EQR Users Group meeting was issued, in Docket No. AD19–9–000, which contained the agenda for discussion for the meeting.[2] Please refer to these notices for information about the upcoming EQR User Group meeting. Commission staff reminds interested persons that issuances related to EQR Users Group meetings will not be assigned to Docket Nos. RM01–8–000, RM10–12–000, RM12–3–000, and ER02–2001–000.[3] The Commission has established a contact list to inform market participants of upcoming EQR related events which is located here: *https://www.ferc.gov/docs-filing/eqr/join-contact-list-form.asp.* For more information about the EQR Users Group meeting, please contact Jeff Sanders of the Commission's Office of Enforcement at (202) 502–6455, or send an email to *EQRUsersGroup@ferc.gov.*

Dated: January 23, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00513 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *https://www.ferc.gov/CalendarFiles/20181206142932-eqr-notice.pdf.*

[2] *https://www.ferc.gov/CalendarFiles/20190115115938-supplemental-notice-2-14-19.pdf.*

[3] *See* Notice of Electric Quarterly Report User Group Meeting (issued on October 17, 2017); Notice of Electric Quarterly Report User Group Meeting (issued on November 21, 2017).

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: ER19–512–001.

Applicants: San Diego Gas & Electric Company.

Description: Tariff Amendment: 2019 SDGE TACBAA Rate Revision to be effective 1/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5050.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–858–000.

Applicants: Entergy Arkansas, LLC.

Description: Baseline eTariff Filing: Notice of Succession to be effective 1/24/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5000.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–859–000.

Applicants: GridLiance West LLC.

Description: § 205(d) Rate Filing: GLW 205 ADIT True-up Revision 1–23–19 to be effective 3/26/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5001.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–860–000.

Applicants: Entergy Arkansas, LLC.

Description: § 205(d) Rate Filing: EAL–SWPA Marketing Agreement to be effective 3/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5021.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–861–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1276R18 KCPL NITSA NOA to be effective 1/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5031.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–862–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–01–24_SA 3111 Bayou Bend Solar-ELL 1st Rev GIA (J581) to be effective 1/9/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5032.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–863–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC–SCE&G RS No. 294 Interconnection Agreement to be effective 4/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5036.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–864–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1910R14 Southwestern Public Service Company NITSA NOA to be effective 1/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5037.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–865–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP-City of Camden PPA Amendment (RS No. 197) (State ADIT) to be effective 11/1/2018.

Filed Date: 1/24/19.

Accession Number: 20190124–5077.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–866–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: E&P Agreement for Sand Hill C Wind Farm to be effective 1/25/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5105.

Comments Due: 5 p.m. ET 2/14/19.

Docket Numbers: ER19–867–000.

Applicants: South Carolina Electric & Gas Company.

Description: § 205(d) Rate Filing: IA between DEC and SCEG to be effective 4/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5109.

Comments Due: 5 p.m. ET 2/14/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:

http://www.ferc.gov/docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00527 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–114–000.

Applicants: The Dow Chemical Company, Union Carbide Corporation, Dow Pipeline Company, E. I. du Pont de Nemours and Company, Spruance Genco, LLC.

Description: Response to December 6, 2018 Deficiency Letter of The Dow Chemical Company, et al.

Filed Date: 12/28/18.

Accession Number: 20181228–5100.

Comments Due: 5 p.m. ET 1/18/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1514–005.

Applicants: CPV Keenan II Renewable Energy Company, LLC.

Description: Market Power Update of CPV Keenan II Renewable Energy Company, LLC.

Filed Date: 12/27/18.

Accession Number: 20181227–5243.

Comments Due: 5 p.m. ET 2/25/19.

Docket Numbers: ER10–2739–024; ER10–1892–011; ER14–2499–004; ER16–1652–012.

Applicants: LS Power Marketing, LLC, Columbia Energy LLC, LifeEnergy, LLC, Oneta Power, LLC.

Description: Updated Market Power Analysis of the LS SPP MBR Sellers.

Filed Date: 12/27/18.

Accession Number: 20181227–5240.

Comments Due: 5 p.m. ET 2/25/19.

Docket Numbers: ER12–1238–008; ER12–1239–008; ER10–2385–009; ER10–2368–008; ER10–2382–009; ER10–2357–009; ER10–2369–008; ER10–2361–009.

Applicants: Broken Bow Wind, LLC, Crofton Bluffs Wind, LLC, Elkhorn Ridge Wind, LLC, Laredo Ridge Wind, LLC, San Juan Mesa Wind Project, LLC, Sleeping Bear, LLC, Taloga Wind, LLC, Wildorado Wind, LLC.

Description: Updated Market Power Analysis of the Clearway SPP MBR Sellers.

Filed Date: 12/28/18.

Accession Number: 20181228–5112.

Comments Due: 5 p.m. ET 2/26/19.

Docket Numbers: ER15–1332–007; ER10–2401–007; ER10–2402–007; ER10–2403–008; ER11–3414–008; ER13–1816–010; ER15–1333–007; ER17–1318–003; ER18–1188–001.

Applicants: Arbuckle Mountain Wind Farm LLC, Blue Canyon Windpower II LLC, Blue Canyon Windpower V LLC, Blue Canyon Windpower VI LLC, Cloud County Wind Farm, LLC, Prairie Queen Wind Farm LLC, Redbed Plains Wind Farm LLC, Sustaining Power Solutions LLC, Waverly Wind Farm LLC.

Description: Updated Market Power Analysis for the Southwest Power Pool Region of Arbuckle Mountain Wind Farm LLC, et. al.

Filed Date: 12/27/18.

Accession Number: 20181227–5246.

Comments Due: 5 p.m. ET 2/25/19.

Docket Numbers: ER19–278–001.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: Tariff Amendment: 2018–12–28_MP–GRE ICA Substitute (Baxter) to be effective 11/3/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5090.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–697–000.

Applicants: Cheyenne Light, Fuel and Power Company.

Description: § 205(d) Rate Filing: Transmission Formula Rate Template and Protocols to be effective 1/1/2019.

Filed Date: 12/27/18.

Accession Number: 20181227–5215.

Comments Due: 5 p.m. ET 1/17/19.

Docket Numbers: ER19–698–000.

Applicants: Broken Bow Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5064.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–699–000.

Applicants: Crofton Bluffs Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5067.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–700–000.

Applicants: Elkhorn Ridge Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5068.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–701–000.

Applicants: Laredo Ridge Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5070.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–702–000.

Applicants: San Juan Mesa Wind Project, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5071.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–703–000.

Applicants: Sleeping Bear, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5072.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–704–000.

Applicants: Taloga Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5073.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–705–000.

Applicants: Wildorado Wind, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 12/29/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5074.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–706–000.

Applicants: ISO New England Inc., Emera Maine.

Description: § 205(d) Rate Filing: ISO–NE and Emera Maine; Original Service Agreement under Schedule 21–EM to be effective 1/1/2019.

Filed Date: 12/28/18.

Accession Number: 20181228–5075.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–707–000.

Applicants: ISO New England Inc., New England Power Company.

Description: § 205(d) Rate Filing: ISO–NE and NEP; Second Revised Service Agreement No. TSA–NEP–83 to be effective 1/1/2019.

Filed Date: 12/28/18.

Accession Number: 20181228–5076.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–708–000.

Applicants: GSG, LLC.

Description: Baseline eTariff Filing: Reactive Power Compnsation Filing to be effective 2/26/2019.

Filed Date: 12/28/18.

Accession Number: 20181228–5077.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–709–000.

Applicants: Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc.

Description: § 205(d) Rate Filing: Entergy OpCos Reactive Power Update to be effective 1/1/2019.

Filed Date: 12/28/18.

Accession Number: 20181228–5080.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–710–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1636R22 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 12/1/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5084.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–711–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: KyMEA Telecom Equipment Agreement Service Agmt No. 21 to be effective 12/31/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5095.

Comments Due: 5 p.m. ET 1/18/19.

Docket Numbers: ER19–712–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3499 Poplar Bluff Municipal Utilities NITSA NOA to be effective 12/1/2018.

Filed Date: 12/28/18.

Accession Number: 20181228–5096.

Comments Due: 5 p.m. ET 1/18/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 28, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00530 Filed 1–30–19; 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 exempt wholesale generator filings:

Docket Numbers: EG19–51–000.

Applicants: Cedar River Transmission, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cedar River Transmission, LLC.

Filed Date: 1/24/19.

Accession Number: 20190124–5206.

Comments Due: 5 p.m. ET 2/14/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–015; ER10–1594–015; ER10–1617–015; ER10–1624–008; ER10–1626–010; ER10–1628–015; ER10–1632–017; ER12–60–017; ER16–1148–006; ER16–733–006.

Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Tenaska Energía de Mexico, S. de R. L. de C.V., Tenaska Gateway Partners, Ltd., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC.

Description: Notification of Change in Status of the Indicated Tenaska MBR Sellers.

Filed Date: 1/22/19.

Accession Number: 20190122–5326.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER10–2237–008; ER14–1818–017.

Applicants: Wildflower Energy LP, Boston Energy Trading and Marketing LLC.

Description: Notice of Non-Material Change in Status of the Indicated DGC Sellers.

Filed Date: 1/22/19.

Accession Number: 20190122–5320.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER10–3066–003; ER10–2309–004; ER10–3058–003; ER10–3059–003; ER10–3065–003.

Applicants: Edgewood Energy, LLC, Elwood Energy LLC, Equus Power I, L.P., Pinelawn Power, LLC, Shoreham Energy, LLC.

Description: Notice of Change in Status of the J–POWER North America Holdings Co., Ltd. Affiliates.

Filed Date: 1/22/19.

Accession Number: 20190122–5328.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER11–4052–002.

Applicants: Alpha Gas and Electric LLC.

Description: Notice of Change in Status of Alpha Gas and Electric LLC.

Filed Date: 1/22/19.

Accession Number: 20190122–5336.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER13–2409–008; ER11–4363–008; ER11–4498–012; ER11–4499–012; ER11–4501–014; ER12–2448–013; ER12–979–013; ER14–2858–007; ER15–2615–003; ER15–2620–003; ER16–2293–004; ER16–2577–003; ER16–2653–004; ER16–2687–002; ER17–2457–003; ER17–2470–003; ER17–790–001; ER18–2312–002; ER18–27–002.

Applicants: Buffalo Dunes Wind Project, LLC, Caney River Wind Project, LLC, Chisholm View Wind Project, LLC, Chisholm View Wind Project II, LLC, Cimarron Bend Wind Project I, LLC, Cimarron Bend Wind Project II, LLC, Drift Sand Wind Project, LLC, Enel Green Power Diamond Vista Wind Project, LLC, Goodwell Wind Project, LLC, Lindahl Wind Project, LLC, Little Elk Wind Project, LLC, Origin Wind Energy, LLC, Osage Wind, LLC, Red Dirt Wind Project, LLC, Rock Creek Wind Project, LLC, Rocky Ridge Wind Project, LLC, Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Thunder Ranch Wind Project, LLC.

Description: Notice of Non-Material Change in Status of Buffalo Dunes Wind Project, LLC, et. al.

Filed Date: 1/22/19.

Accession Number: 20190122–5338.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–1189–001; ER18–1188–002.

Applicants: Meadow Lake Wind Farm VI LLC, Prairie Queen Wind Farm LLC.

Description: Notice of Non-Material Change in Status of Meadow Lake Wind Farm VI LLC, et al.

Filed Date: 1/22/19.

Accession Number: 20190122–5324.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–1777–003; ER10–1342–005.

Applicants: Meadowlark Wind I LLC, CP Energy Marketing (US) Inc.

Description: Notice of Change in Status of Meadowlark Wind I LLC, et al.

Filed Date: 1/22/19.

Accession Number: 20190122–5322.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–1935–001.

Applicants: Alabama Power Company.

Description: Compliance filing: Gulf NITSA Compliance Filing to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5077.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER18–1936–001.

Applicants: Alabama Power Company.

Description: Compliance filing: Gulf PTP Agreements (Daniel 1&2 and Scherer 3) Compliance Filing to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5078.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER18–1937–001.

Applicants: Alabama Power Company.

Description: Compliance filing: Gulf PTP Agreements (Kingfisher I and II) Compliance Filing to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5079.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER18–2330–001.

Applicants: Enel Green Power Rattlesnake Creek Wind Project, LLC.

Description: Notice of Non-Material Change in Status of Enel Green Power Rattlesnake Creek Wind Project, LLC.

Filed Date: 1/22/19.

Accession Number: 20190122–5333.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–263–001.

Applicants: AMP Transmission, LLC, PJM Interconnection, L.L.C.

Description: Tariff Amendment: AMPT submits its response to the Commission's 12/26/2018 Deficiency Letter to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5107.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER19–419–001.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: Tariff Amendment: 2019–01–25_SA 3217 MP–GRE ICA Substitute (V̄erndale) to be effective 11/30/2018.

Filed Date: 1/25/19.

Accession Number: 20190125–5057.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER19–868–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Amendment (Supp. No. 4) to Peninsula Corridor JPB Supplement No. 3 (RS 249) to be effective 2/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5000.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER19–869–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2824R5 KMEA & Sunflower Meter Agent Agreement to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5005.

Comments Due: 5 p.m. ET 2/15/19.

Docket Numbers: ER19–870–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Westar Energy Formula Rate Revisions to Modify Depreciation Rates to be effective 1/1/2019.

Filed Date: 1/25/19.

Accession Number: 20190125–5063.

Comments Due: 5 p.m. ET 2/15/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 25, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00528 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–30–000]

LS Power Grid New York, LLC, LS Power Grid New York Corporation I; Notice of Petition for Declaratory Order

Take notice that on January 10, 2019, pursuant to section 219 of the Federal Power Act,[1] Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2018), LS Power Grid New York, LLC and LS Power Grid New York Corporation I (collectively LSPG–NY or Petitioners), filed a petition for a declaratory order requesting the Commission authorize full recovery of prudently-incurred costs in the event that the AC Transmission Upgrades Project, designated to LSPG–NY and New York Power Authority, is abandoned for reasons beyond the Petitioners control, 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.

[1] 16 U.S.C. 824ds (2018).

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 February 11, 2019.

Dated: January 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00516 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–34–000]

Brookfield Energy Marketing LP v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on January 18, 2019, pursuant to sections 206, and 306 of the Federal Power Act, 16 U.S.C. 824(e), 825(e), and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2018), Brookfield Energy Marketing LP (Complainant or BEMLP) filed a formal complaint (complaint) against PJM Interconnection, L.L.C. (Respondent or PJM) alleging that PJM's pseudo-tie requirements applicable to external resources seeking to participate in PJM's capacity market as applied by PJM are unjust, unreasonable and unduly discriminatory and preferential, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint has been served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 7, 2019.

Dated: January 22, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00514 Filed 1–30–19; 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 exempt wholesale generator filings:

Docket Numbers: EG19–48–000.

Applicants: Terra-Gen CA Windpower Development, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Terra-Gen CA Windpower Development, LLC.

Filed Date: 1/11/19.

Accession Number: 20190111–5026.

Comments Due: 5 p.m. ET 2/1/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2774–002.

Applicants: Virginia Electric and Power Company, Dominion Energy Generation Marketing, Inc., Dominion Energy Nuclear Connecticut, Inc., Dominion Bridgeport Fuel Cell, LLC.

Description: Notice of Non-Material Changes in Fuel Procurement Operations of Dominion Resources Services, Inc., on behalf of Virginia Electric and Power Company, et al.

Filed Date: 1/10/19.

Accession Number: 20190110–5155.

Comments Due: 5 p.m. ET 1/31/19.

Docket Numbers: ER18–2449–001.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: ALLETE, Inc. submits supplement to September 18, 2018 and November 15, 2018 tariff filings.

Filed Date: 1/10/19.

Accession Number: 20190110–5152.

Comments Due: 5 p.m. ET 1/31/19.

Docket Numbers: ER18–896–001.

Applicants: Meadow Lake Wind Farm II LLC.

Description: Report Filing: Refund Report Filing to be effective N/A.

Filed Date: 1/11/19.

Accession Number: 20190111–5017.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER18–2231–002.

Applicants: Duke Energy Carolinas, LLC.

Description: Compliance filing: DEC Revised Depreciation Rates (RS–514) Filing (Correct Metadata) to be effective 8/1/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5099.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–794–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3517 Plum Creek Wind, LLC GIA to be effective 12/19/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5016.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–795–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Exelon NITSA (OR D.A.) Rev 2 to be effective 1/1/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5020.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–796–000.

Applicants: Duke Energy Indiana, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Duke Energy submits Interconnection Agreement SA No. 5254 to be effective 12/12/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5021.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–797–000.

Applicants: New York State Electric & Gas Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205: NYSEG–MAIT CRA No. 2444 to be effective 12/17/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5027.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–798–000.

Applicants: The Dayton Power and Light Company.

Description: § 205(d) Rate Filing: DP&L Buckeye ILDSA Filing to be effective 4/1/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5051.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–799–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: GIA & DSA Deer Creek Solar 1 Project SA Nos. 1058 & 1059 to be effective 1/12/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5062.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–800–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: Amcor NITSA, NOA, IA to be effective 1/1/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5101.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–801–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Cancellation: DEF—Notice of Cancellation of Shady Hills LGIA (SA No. 235) to be effective 10/16/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5114.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–802–000.

Applicants: Duke Energy Indiana, LLC, Duke Energy Ohio, Inc.

Description: § 205(d) Rate Filing: Duke-AEP IA (PJM SA No. 1491) Amendment to be effective 12/12/2018.

Filed Date: 1/11/19.

Accession Number: 20190111–5115.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–803–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Notice of Termination of Adjacent Balancing Authority Coordination Agreement (Rate Schedule No. 18) of Midcontinent Independent System Operator, Inc.

Filed Date: 1/11/19.

Accession Number: 20190111–5121.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–804–000.

Applicants: Public Service Company of New Mexico.

Description: § 205(d) Rate Filing: Modifications to NITSA/NOA Between PNM and TSGT to be effective 1/1/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5145.

Comments Due: 5 p.m. ET 2/1/19.

Docket Numbers: ER19–805–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: SVP Work Performance Agreement for NRS Relay Replacement (SA 343) to be effective 1/14/2019.

Filed Date: 1/11/19.

Accession Number: 20190111–5153.

Comments Due: 5 p.m. ET 2/1/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00532 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–10–000]

Commission Information Collection Activities (FERC–912); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–912 (PURPA Section 210(m) Notification Requirements Applicable to Cogeneration and Small Power Production Facilities).

DATES: Comments on the collection of information are due April 1, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–10–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–912, PURPA Section 210(m) Notification Requirements Applicable to Cogeneration and Small Power Production Facilities.

OMB Control No.: 1902–0237.

Type of Request: Three-year extension of the FERC–912 information collection requirements with no changes to the current reporting requirements.

Abstract: On 8/8/2005, the Energy Policy Act of 2005 (EPAct 2005) [1] was signed into law. Section 1253(a) of EPAct 2005 amends Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) by adding subsection ''(m),'' that provides, based on a specified showing, for the termination and subsequent reinstatement of an electric utility's obligation to purchase from, and sell energy and capacity to, qualifying facilities (QFs). 18 CFR 292.309–292.313 are the implementing regulations, and provide procedures for:

- An electric utility to file an application for the termination of its obligation to purchase energy and capacity from, or sell to, a QF; [2] and
- An affected entity or person to subsequently apply to the Commission for an order reinstating the electric utility's obligation to purchase energy and capacity from, or sell to, a QF.[3]

Type of Respondents: Electric utilities, principally.

[1] Public Law 109–58, 119 Stat. 594 (2005).

[2] 18 CFR 292.310 and 292.312.

[3] 18 CFR 292.311 and 292.313.

Estimate of Annual Burden: [4] The Commission estimates the total Public Reporting Burden and cost for this information collection as follows:

FERC–912 (IC19–10–000)—COGENERATION AND SMALL POWER PRODUCTION, PURPA SECTION 210(m) REGULATIONS FOR TERMINATION OR REINSTATEMENT OF OBLIGATION TO PURCHASE OR SELL

	Number of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hours & average cost per response ($) [5] (4)	Total annual burden hours & total annual cost ($) (3) × (4) = (5)	Cost per respondent ($) (5) ÷ (1) = (6)
Termination of obligation to purchase	7	1	7	12 $864	84 $6,048	$864
Reinstatement of obligations to purchase	0	0	0	0 $0	0 $0	0
Termination of obligation to sell	2	1	2	8 $576	16 $1,152	576
Reinstatement of obligation to sell	0	0	0	0 $0	0 $0	0
Total					100 $7,200	1,440

Comments: Commentsare invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 31, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00535 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–509–000.

Applicants: Central Kentucky Transmission Company.

Description: Penalty Revenue Crediting Report of Central Kentucky Transmission Company under RP19–509.

Filed Date: 12/28/18.

Accession Number: 20181228–5197.

Comments Due: 5 p.m. ET 1/9/19.

Docket Numbers: RP19–510–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: eTariff filing per 660: Negotiated Rate Agreement Update (Conoco Jan 2019) to be effective 1/1/2019.

Filed Date: 12/28/18.

Accession Number: 20181228–5323.

Comments Due: 5 p.m. ET 1/9/19.

Docket Numbers: RP18–1167–001.

Applicants: Equitrans, L.P.

Description: eTariff filing per 1430: FERC Form No. 501–G to be effective N/A.

Filed Date: 12/28/18.

Accession Number: 20181228–5303.

Comments Due: 5 p.m. ET 1/9/19.

Docket Numbers: RP19–531–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—1/1/2019 to be effective 1/1/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5056.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–532–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: § 4(d) Rate Filing: ETNG—Wacker 410453 Release to Infinite Energy 661877 to be effective 1/1/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5066.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–533–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta Gas 8438 to various eff 1–1–2019) to be effective 1/1/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5111.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–534–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (PennEnergy 37579 to JERA 37702 to EDF 37706) to be effective 1/1/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5112.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–535–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rate—CFE International Contract 911488 to be effective 1/15/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5117.

[4] Burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[5] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary ($149,489/year). Commission staff believes the FERC average salary to be representative wage for industry respondents.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–536–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Non-conforming Agreement—CFE International Contract 911488 to be effective 1/15/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5132.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–537–000.

Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Columbia Gas to Direct En 960059 to be effective 1/3/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5162.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–538–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: 2019–01–02 Housekeeping to be effective 1/3/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5222.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–539–000.

Applicants: Enable Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Filing—January 1, 2019 SWEPCO 1006349 to be effective 1/1/2019.

Filed Date: 1/2/19.

Accession Number: 20190102–5274.

Comments Due: 5 p.m. ET 1/14/19.

Docket Numbers: RP19–540–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Expired Negotiated Rate Agreements to be effective 2/3/2019.

Filed Date: 1/3/19.

Accession Number: 20190103–5064.

Comments Due: 5 p.m. ET 1/15/19.

Docket Numbers: RP19–541–000.

Applicants: Millennium Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Amgts—Interim Capacity to be effective 1/4/2019.

Filed Date: 1/3/19.

Accession Number: 20190103–5145.

Comments Due: 5 p.m. ET 1/15/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 4, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00537 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC19–58–000]

Plantation Pipe Line Company; Notice of Filing

Take notice that on January 16, 2019, Plantation Pipe Line Company filed a request for approval to use Account 75, as addressed by the Financial Accounting Standards Board.

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 Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on February 5, 2019.

Dated: January 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00512 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the

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. CP15–554–000, CP15–554–001	12–7–2018	Dominion Dental.
2. CP15–554–000	12–14–2018	FERC Staff.[1]
Exempt:		
1. CP16–454–000, CP16–455–000	12–11–2018	U.S. Congressman Pete Olson.
2. CP17–21–000, CP18–7–000	12–12–2018	FERC Staff.[2]
3. CP18–186–000	12–12–2018	FERC Staff.[3]
4. CP18–46–000	12–13–2018	U.S. Congressman Brian Fitzpatrick, Pennsylvania State Representative Craig Staats.
5. CP18–186–000	12–17–2018	FERC Staff.[4]

[1] Memo forwarding email dated December 7, 2018 from Shawn Smeallie.
[2] Call summary for call on November 28, 2018 with PAPL and Merjent.
[3] Conference Call memo for call on December 11, 2018 with Transcontinental Gas Pipe Line Company, LLC.
[4] Memo for email on December 17, 2018 with Transcontinental Gas Pipe Line Company, LLC.

Dated: December 26, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00462 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–19–000]

Commission Information Collection Activities (FERC–725); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–725 (Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. On September 27, 2018, the Commission published a Notice in the **Federal Register** in Docket No. IC18–19–000 requesting public comments. The Commission received one public comment which is addressed here and in the related submittal to OMB.

DATES: Comments on the collection of information are due March 4, 2019.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0225, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC18–19–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards.

OMB Control No.: 1902–0225.

Type of Request: Three-year extension of the FERC–725 information collection requirements with no changes to the current reporting and recordkeeping requirements.

Abstract: The FERC–725 contains the following information collection elements:

Self Assessment and ERO (Electric Reliability Organization) Application: The Commission requires the ERO to submit to FERC a performance assessment report every five years. The next assessment is due in 2019. Each Regional Entity submits a performance assessment report to the ERO.

Submitting an application to become the ERO is also part of this collection.[1]

Reliability Assessments: 18 CFR 39.11 requires the ERO to assess the reliability and adequacy of the Bulk-Power System in North America. Subsequently, the ERO must report to the Commission on its findings. Regional entities perform similar assessments within individual regions. Currently the ERO submits to FERC three assessments each year: Long term, winter, and summer. In addition, the North American Electric Reliability

[1] The Commission does not expect any new ERO applications to be submitted in the next five years and is not including any burden for this requirement in the burden estimate. FERC still seeks to renew the regulations pertaining to a new ERO application under this renewal but is expecting the burden to be zero for the foreseeable future. 18 CFR 39.3 contains the regulation pertaining to ERO applications.

Corporation (NERC, the Commission-approved ERO) also submits various other assessments as needed.

Reliability Standards Development: Under section 215 of the FPA, the ERO is charged with developing Reliability Standards. Regional Entities may also develop regional specific standards.

Reliability Compliance: Reliability Standards are mandatory and enforceable upon approval by the Commission. In addition to the specific information collection requirements contained in each standard (cleared under other information collections), there are general compliance, monitoring and enforcement information collection requirements imposed on applicable entities. Audits, spot checks, self-certifications, exception data submittals, violation reporting, and mitigation plan confirmation are included in this area.

Stakeholder Survey: The ERO uses a stakeholder survey to solicit feedback from registered entities [2] in preparation for its three year and five year self-performance assessment. The Commission assumes that the ERO will perform another survey prior to the 2019 self-assessment.

Other Reporting: This category refers to all other reporting requirements imposed on the ERO or regional entities in order to comply with the Commission's regulations. For example, FERC may require NERC to submit a special reliability assessment. This category captures these types of one-time filings required of NERC or the Regions.

The Commission implements its responsibilities through 18 CFR part 39.

Type of Respondent: Electric Reliability Organization, Regional entities, and registered entities.

Summary and Response to Public Comment: In response to the Notice of Information Collection and Request for Comments published in the **Federal Register** on September 21, 2018, the Commission received one comment from Utility Services, Inc. The comment sought clarification on certain compliance provisions contained in the Rules of Procedure of the North American Electric Reliability Corporation (NERC), which are approved by the Commission. The comment maintained that, depending on the Commission's answer, the information collection burden on applicable entities associated with the application of the NERC Rules of Procedure could be affected.

The Commission finds this proceeding is not the proper forum to request clarification regarding the scope and application of the NERC Rules of Procedure. Such requests may be directed to NERC or, more formally, through a petition to the Commission proposing changes to the NERC Rules of Procedure. Such a request, if filed with the Commission, would be addressed after notice and opportunity for comment and the development of a record. By contrast, while the comment states that the request for clarification is motivated by uncertainty among applicable entities (*i.e.,* the commenter's unnamed clients), that assertion is unsubstantiated. In addition, the provisions in the NERC Rules of Procedure referenced by the commenter were approved by the Commission in response to a petition filed by NERC, to which no comments were received.

Estimate of Annual Burden: [3] The Commission estimates the total annual burden and cost [4] for this information collection in the table below. For hourly cost (for wages and benefits), we estimate that 70% of the time is spent by Electrical Engineers (code 17–2071, at $66.90/hr.), 20% of the time is spent by Legal (code 23–0000, at $143.68/hr.), and 10% by Office and Administrative Support (code 43–0000, at $41.34/hr.). Therefore, we use the weighted hourly cost (for wages and benefits) of $79.70 {or [(0.70) * ($66.90/hr.)] + [(0.20) * $143.68/hr.] + [(0.10) * $41.34/hr.]}.

FERC–725—Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards

Type of respondent	Type of reporting requirement	Number of respondents (A)	Annual number of responses per respondent (B) [5]	Total number of responses (A) × (B) = (C)	Average burden hours & cost ($) per response (rounded) (D)	Estimated total annual burden hrs. & cost ($) (rounded) (C) × (D)
Electric Reliability Organization (ERO).	Self-Assessment		.2	.2	4,160 hrs.; $331,552	832 hrs.; $66,310.
	Reliability Assessments		5.5	5.5	15,600 hrs.; $1,243,320	85,800 hrs.; $6,838,260.
	Reliability Compliance		2	2	20,280 hrs.; $1,616,316	40,560 hrs.; $3,232,632.
	Standards Development		1	1	21,840 hrs.; $1,740,648	21,840 hrs.; $1,740,648.
	Other Reporting	1	1	1	2,080 hrs.; $165,776	2,080 hrs.; $165,776.
ERO, Sub-Total						*151,112 hrs.; $12,043,626.*
Regional Entities	Self-Assessment		.2	1.4	4,160 hrs.; $331,552	5,824 hrs.; $464,173.
	Reliability Assessments		1	7	15,600 hrs.; $1,243,320	109,200 hrs.; $8,703,240.
	Reliability Compliance		1	7	37,440 hrs.; $2,983,968	262,080 hrs.; $20,887,776.
	Standards Development		1	7	2,340 hrs.; $186,498	16,380 hrs.; $1,305,486.
	Other Reporting	7	1	7	1,040 hrs.; $82,888	7,280 hrs.; $580,216.
Regional Entities, Sub-Total.						*400,764 hrs.; $31,940,891.*
Registered Entities	Stakeholder Survey		.2	281.8	8 hrs.; $637.60	2,254 hrs.; $179,676.
	Reliability Compliance	*1,409	1	1,409	400 hrs.; $31,880	563,600 hrs.; $44,918,920.

[2] A ''registered entity'' is an entity that is registered with the ERO. All Bulk-Power System owners, operators and users are required to register with the ERO. Registration is the basis for determining the Reliability Standards with which an entity must comply. See *http://www.nerc.com/page.php?cid=3%7C25* for more details.

[3] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[4] Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2017 (at *https://www.bls.gov/oes/current/naics2_22.htm*) and benefits information (at *https://www.bls.gov/news.release/ecec.nr0.htm).*

[5] In instances where the number of responses per respondent is ''1,'' the Commission Staff thinks that the actual number of responses varies and cannot be estimated accurately.

FERC–725—CERTIFICATION OF ELECTRIC RELIABILITY ORGANIZATION; PROCEDURES FOR ELECTRIC RELIABILITY STANDARDS—Continued

Type of respondent	Type of reporting requirement	Number of respondents (A)	Annual number of responses per respondent (B) [5]	Total number of responses (A) × (B) = (C)	Average burden hours & cost ($) per response (rounded) (D)	Estimated total annual burden hrs. & cost ($) (rounded) (C) × (D)
Registered Entities, Sub-Total.	.....	.....	.....	.....	.....	*565,854 hrs.; $45,098,596.*
Total Burden Hrs. and Cost.	.....	.....	.....	.....	.....	1,117,730 hrs.; $89,083,113.

* Estimated.

As indicated in the table, there was a decrease from eight to seven in the number of Regional Entities because the Southwest Power Pool dissolved in 2018. Other changes from previous estimates are based on new data in the proposed NERC 2019 Business Plan and Budget to reflect changes in the number of FTEs (full-time equivalent employees) working in applicable areas. Reviewing the NERC Compliance database, we determined the number of unique U.S. entities is 1,409 (compared to the previous value of 1,446). Lastly, in several instances, the amount of time an FTE devotes to a given function may have been increased or decreased.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00452 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–48–000.

Applicants: American Electric Power Service Corporation, AEP Ohio Transmission Company, Inc.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of American Electric Power Service Corporation, on behalf of affiliate AEP Ohio Transmission Company, Inc.

Filed Date: 1/23/19.

Accession Number: 20190123–5081.

Comments Due: 5 p.m. ET 2/13/19.

Docket Numbers: EC19–49–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Oklahoma Gas and Electric Company.

Filed Date: 1/23/19.

Accession Number: 20190123–5082.

Comments Due: 5 p.m. ET 2/13/19.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–50–000.

Applicants: Innolith Snook LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Innolith Snook LLC.

Filed Date: 1/23/19.

Accession Number: 20190123–5070.

Comments Due: 5 p.m. ET 2/13/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3307–000.

Applicants: NRG Energy Center Dover LLC.

Description: Report Filing: Refund Report to be effective N/A.

Filed Date: 1/23/19.

Accession Number: 20190123–5017.

Comments Due: 5 p.m. ET 2/13/19.

Docket Numbers: ER17–706–006.

Applicants: GridLiance West LLC.

Description: Compliance filing: GLW 206 Compliance Filing [EL18–158] to be effective 6/27/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5209.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–537–001; ER14–608–002; ER16–1644–002; ER17–1214–001.

Applicants: MRP San Joaquin Energy, LLC, High Desert Power Project, LLC, MRP Generation Holdings, LLC, Coso Geothermal Power Holdings, LLC.

Description: Supplement to December 13, 2018 Notice of Change in Status of MRP San Joaquin Energy, LLC, et. al.

Filed Date: 1/22/19.

Accession Number: 20190122–5301.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–840–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Second Revised ISA, SA No. 2136; Queue No. AC1–038/AC2–172 to be effective 12/22/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5202.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–841–000.

Applicants: Energy Center Dover LLC.

Description: Baseline eTariff Filing: Baseline MBR Tariff Refiling, Request for Administrative Cancellation & Waivers to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5203.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–842–000.

Applicants: Energy Center Paxton LLC.

Description: Baseline eTariff Filing: Baseline MBR Tariff Refiling, Request for Administrative Cancellation & Waivers to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5204.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–843–000.

Applicants: Solar Blythe LLC.

Description: Baseline eTariff Filing: Baseline MBR Tariff Refiling, Request for Administrative Cancellation & Waivers to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5205.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–844–000.

Applicants: Solar Roadrunner LLC.
Description: Baseline eTariff Filing: Baseline MBR Tariff Refiling, Request for Administrative Cancellation & Waivers to be effective 1/23/2019.
Filed Date: 1/22/19.
Accession Number: 20190122–5206.
Comments Due: 5 p.m. ET 2/12/19.
Docket Numbers: ER19–853–000.
Applicants: Consolidated Edison Energy, Inc.
Description: Request for Additional Cost Recovery of Consolidated Edison Energy, Inc.
Filed Date: 1/18/19.
Accession Number: 20190118–5210.
Comments Due: 5 p.m. ET 2/8/19.
Docket Numbers: ER19–854–000.
Applicants: Innolith Snook LLC.
Description: Baseline eTariff Filing: Innolith Snook LLC MBR Tariff to be effective 1/24/2019.
Filed Date: 1/23/19.
Accession Number: 20190123–5061.
Comments Due: 5 p.m. ET 2/13/19.
Docket Numbers: ER19–856–000.
Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ComEd submits revisions to Att. H–13 re: Sun-Mountain Hilltop WDC to be effective 1/24/2019.
Filed Date: 1/23/19.
Accession Number: 20190123–5077.
Comments Due: 5 p.m. ET 2/13/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–9–000; ES19–10–000; ES19–11–000; ES19–12–000.
Applicants: Transource Maryland, LLC, Transource Missouri, LLC, Transource Pennsylvania, LLC, Transource West Virginia, LLC.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Transource Maryland, LLC, et al.
Filed Date: 1/22/19.
Accession Number: 20190122–5302.
Comments Due: 5 p.m. ET 2/12/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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: January 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00523 Filed 1–30–19; 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: ER10–1585–014; ER10–1594–014; ER10–1597–007; ER10–1617–014; ER10–1624–007; ER10–1628–014; ER10–1632–016; ER12–60–016; ER16–1148–005; ER16–733–005.
Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, Kiowa Power Partners, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Tenaska Energía de Mexico, S. de R. L. de C.V., Tenaska Gateway Partners, Ltd., Tenaska Power Management, LLC, Tenaska Power Services Co., Texas Electric Marketing, LLC.
Description: Updated Market Power Analysis of the Tenaska SPP MBR Sellers.
Filed Date: 12/27/18.
Accession Number: 20181227–5143.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER10–2757–007; ER11–3051–003.
Applicants: Arlington Valley, LLC, Macho Springs Power I, LLC.
Description: Notice of Change in Status of Arlington Valley, LLC, et al.
Filed Date: 12/27/18.
Accession Number: 20181227–5136.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER10–2794–026; ER12–1825–024; ER14–2672–011.
Applicants: EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.
Description: Updated Market Power Analysis for the SPP Region of the EDF Sellers.
Filed Date: 12/27/18.
Accession Number: 20181227–5171.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER10–3063–002.
Applicants: Green Country Energy, LLC.
Description: Triennial Market Power Update for the SPP Region of Green Country Energy, LLC.
Filed Date: 12/27/18.
Accession Number: 20181227–5172.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER15–2131–005; ER15–2130–005; ER15–2129–005; ER12–2037–012; ER12–2314–008.
Applicants: Spinning Spur Wind LLC, Spearville 3, LLC, Slate Creek Wind Project, LLC, Roosevelt Wind Project, LLC, Milo Wind Project, LLC.
Description: Triennial Market Power Update for the SPP Region of the EDFR SPP Sellers.
Filed Date: 12/26/18.
Accession Number: 20181226–5182.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER16–2360–006.
Applicants: Great Western Wind Energy, LLC.
Description: Market-Based Triennial Review Filing: 2018 Triennial Market Power Update for the SPP Region—Great Western Wind to be effective 2/25/2019.
Filed Date: 12/26/18.
Accession Number: 20181226–5171.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER17–2258–003.
Applicants: Rock Falls Wind Farm LLC.
Description: Triennial Market Power Update for the Southwest Region of Tucson Electric Power Company, et al.
Filed Date: 12/26/18.
Accession Number: 20181226–5172.
Comments Due: 5 p.m. ET 2/25/19.
Docket Numbers: ER19–463–001.
Applicants: Duke Energy Progress, LLC.
Description: Tariff Amendment: DEC–DEP State ADIT Errata Filing to be effective 1/1/2019.
Filed Date: 12/27/18.
Accession Number: 20181227–5026.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–688–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended and Restated Agreement for Interconnection Service Harbor Cogeneration to be effective 12/21/2018.
Filed Date: 12/26/18.
Accession Number: 20181226–5173.
Comments Due: 5 p.m. ET 1/16/19.
Docket Numbers: ER19–689–000.
Applicants: The Connecticut Light and Power Company.
Description: Initial rate filing: Clear River Energy LLC Related Facilities Agreement to be effective 2/26/2019.
Filed Date: 12/27/18.
Accession Number: 20181227–5087.
Comments Due: 5 p.m. ET 1/17/19.

Docket Numbers: ER19–690–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3505 ENGIE Energy Marketing NA and Sunflower Meter Agent Agr to be effective 12/1/2018.
Filed Date: 12/27/18.
Accession Number: 20181227–5095.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–691–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: Wholesale Fuel Protocols Update to be effective 3/1/2019.
Filed Date: 12/27/18.
Accession Number: 20181227–5098.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–692–000.
Applicants: NSTAR Electric Company.
Description: § 205(d) Rate Filing: First Supplement to Stony Brook—Ludlow Agreement to be effective 12/31/2018.
Filed Date: 12/27/18.
Accession Number: 20181227–5135.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–693–000.
Applicants: NSTAR Electric Company.
Description: Initial rate filing: Clear River Energy LLC Related Facilities Agreement to be effective 2/26/2019.
Filed Date: 12/27/18.
Accession Number: 20181227–5175.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–694–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP–FPWC RS No. 184 Amendment to be effective 11/1/2018.
Filed Date: 12/27/18.
Accession Number: 20181227–5179.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–695–000.
Applicants: Gulf Power Company.
Description: Initial rate filing: Gulf Power FPU PPA Filing to be effective 12/31/9998.
Filed Date: 12/27/18.
Accession Number: 20181227–5182.
Comments Due: 5 p.m. ET 1/17/19.
Docket Numbers: ER19–696–000.
Applicants: Gulf Power Company.
Description: Initial rate filing: Gulf Power SCS-Flint PPA Filing to be effective 12/31/9998.
Filed Date: 12/27/18.
Accession Number: 20181227–5184.
Comments Due: 5 p.m. ET 1/17/19.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH19–4–000.
Applicants: Pattern Energy Group Inc.
Description: Pattern Energy Group Inc. submits FERC 65–B Waiver Notification.
Filed Date: 12/26/18.
Accession Number: 20181226–5179.
Comments Due: 5 p.m. ET 1/16/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 27, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00529 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–011; ER10–1594–011; ER10–1617–011; ER10–1619–005; ER10–1620–007; ER10–1625–007; ER10–1628–011; ER10–1632–013; ER12–60–013; ER16–1148–002; ER16–733–002.
Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Energía de Mexico, S. de R. L. de C.V., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Georgia Partners, L.P., Texas Electric Marketing, LLC.
Description: Supplement to December 22, 2017 Updated Market Power Analysis in the Southeast Region of the Tenaska MBR Sellers.
Filed Date: 1/16/19.
Accession Number: 20190116–5144.
Comments Due: 5 p.m. ET 2/6/19.
Docket Numbers: ER10–2739–018; ER10–1859–007; ER10–1872–007; ER10–1892–007; ER10–2743–013; ER10–2751–013; ER10–2755–016; ER10–2793–007; ER12–995–005; ER16–1652–006.
Applicants: LS Power Marketing, LLC, Bluegrass Generation Company, L.L.C., Cherokee County Cogeneration Partners, LLC, Columbia Energy LLC, DeSoto County Generating Company, LLC, Las Vegas Power Company, LLC, LifeEnergy, LLC, Mobile Energy L L C, Renaissance Power, L.L.C., Santa Rosa Energy Center, LLC.
Description: Supplement to December 29, 2017 Updated Market Power Analysis of the LS Southeast MBR Sellers.
Filed Date: 1/15/19.
Accession Number: 20190115–5309.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER13–764–018; ER11–3987–013; ER11–4055–008; ER12–1566–012; ER12–199–015; ER12–2498–018; ER12–2499–018; ER14–1548–011; ER14–1775–006; ER14–1776–009; ER14–1927–006; ER15–2653–001; ER16–1325–001; ER16–1326–001 ER16–1327–001; ER17–2141–001; ER17–2142–001; ER17–2385–001; ER17–382–003; ER17–383–003; ER17–384–003 ER18–1416–002; ER18–855–002.
Applicants: Alpaugh 50, LLC, Alpaugh North, LLC, Broken Bow Wind II, LLC, Campbell County Wind Farm, LLC, CED Ducor Solar 1, LLC, CED Ducor Solar 2, LLC, CED Ducor Solar 3, LLC, CED White River Solar, LLC, CED White River Solar 2, LLC, CED Wistaria Solar, LLC, Copper Mountain Solar 1, LLC, Copper Mountain Solar 2, LLC, Copper Mountain Solar 3, LLC, Copper Mountain Solar 4, LLC, Coram California Development, L.P., Great Valley Solar 1, LLC, Great Valley Solar 2, LLC, Great Valley Solar 3, LLC, Mesquite Solar 1, LLC, Mesquite Solar 2, LLC, Mesquite Solar 3, LLC, Panoche Valley Solar, LLC, SEP II, LLC.
Description: Notice of Change in Status and Category Change of the Consolidated Edison, Inc. subsidiaries.
Filed Date: 1/15/19.
Accession Number: 20190115–5311.
Comments Due: 5 p.m. ET 2/5/19.
Docket Numbers: ER19–204–002.
Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.
Description: Compliance filing: PSEG submits an errata to its 1/10/2019 compliance filing re: Tax Cut Jobs Act to be effective 1/1/2019.
Filed Date: 1/17/19.
Accession Number: 20190117–5028.
Comments Due: 5 p.m. ET 2/7/19.
Docket Numbers: ER19–826–000.

Applicants: South Carolina Electric & Gas Company.

Description: Notice of Cancellation of Transmission Service Agreement of South Carolina Electric & Gas Company.

Filed Date: 1/15/19.

Accession Number: 20190115–5302.

Comments Due: 5 p.m. ET 2/5/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: January 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00519 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–47–000.

Applicants: Meyersdale Storage, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Meyersdale Storage, LLC.

Filed Date: 1/18/19.

Accession Number: 20190118–5200.

Comments Due: 5 p.m. ET 2/8/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1682–006.

Applicants: TransCanyon DCR, LLC.

Description: Compliance filing: Formula Rate Template Compliance Filing for ADIT to be effective 6/27/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5101.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–1739–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2019–01–22 Compliance filing by MISO TOs to revise Att O and ADIT Work Papers to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5078.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–2323–001.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company.

Description: Compliance filing: 2019–01–22 Compliance Filing re METC Revisions to Attachment O Formula Rates to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5072.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER18–2323–002.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: Compliance filing: 2019–01–22_Compliance Filing re ITC Companies Revisions to Att O Formula Rates to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5082.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–160–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing per December 20, 2018 order re: Schedule 1A clean-up to be effective 9/15/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5108.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–224–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Deficiency Response—Add Competitive Upgrade Re-Evaluation Process to be effective 12/29/2018.

Filed Date: 1/18/19.

Accession Number: 20190118–5141.

Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–358–000.

Applicants: DG Whitefield LLC.

Description: Report Filing: Suppliment to 1 to be effective N/A.

Filed Date: 1/18/19.

Accession Number: 20190118–5145.

Comments Due: 5 p.m. ET 1/28/19.

Docket Numbers: ER19–359–000.

Applicants: Springfield Power, LLC.

Description: Report Filing: Supplement to 1 to be effective N/A.

Filed Date: 1/18/19.

Accession Number: 20190118–5147.

Comments Due: 5 p.m. ET 1/28/19.

Docket Numbers: ER19–433–002.

Applicants: Union Electric Company.

Description: Tariff Amendment: Request to Defer Action to be effective 12/31/9998.

Filed Date: 1/18/19.

Accession Number: 20190118–5119.

Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–838–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2019–01–22 ATC Revisions to Attachment O for ADIT in response to EL18–157 to be effective 6/27/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5062.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–839–000.

Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: Compliance filing: Dominion submits revisions to Att. H–16A re: Compliance Filing in EL18–167 to be effective 6/27/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5090.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–845–000.

Applicants: Southern California Edison Company.

Description: Compliance filing: Revisions to Transmission Formula Rate Compliance Filing Docket No. EL18–164 to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5107.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–846–000.

Applicants: Antelope DSR 3, LLC.

Description: Baseline eTariff Filing: Antelope DSR 3, LLC MBR Tariff to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5132.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–847–000.

Applicants: San Pablo Raceway, LLC.

Description: Baseline eTariff Filing: San Pablo Raceway MBR Tariff to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5138.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–848–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 371—TOUA to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5167.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–848–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 371—TOUA to be effective 1/1/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5168.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–849–000.

Applicants: Arizona Public Service Company.

Description: Tariff Cancellation: Cancellation of Service Agreement No. 347 to be effective 3/24/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5173.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–850–000.

Applicants: Plymouth Rock Energy, LLC.

Description: § 205(d) Rate Filing: Normal filing to be effective 1/23/2019.

Filed Date: 1/22/19.

Accession Number: 20190122–5183.

Comments Due: 5 p.m. ET 2/12/19.

Docket Numbers: ER19–851–000.

Applicants: MRP San Joaquin Energy, LLC.

Description: Compliance filing: BAseline Refile to be effective 12/13/2018.

Filed Date: 1/22/19.

Accession Number: 20190122–5201.

Comments Due: 5 p.m. ET 2/12/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: January 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00522 Filed 1–30–19; 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: ER16–700–004.
Applicants: CPV Towantic, LLC.
Description: Notice of Change in Status of CPV Towantic, LLC.
Filed Date: 1/15/19.
Accession Number: 20190115–5316.
Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: ER17–1531–003.
Applicants: CPV Fairview, LLC.
Description: Notice of Change in Status of CPV Fairview, LLC.
Filed Date: 1/17/19.
Accession Number: 20190117–5105.
Comments Due: 5 p.m. ET 2/7/19.

Docket Numbers: ER17–1622–003.
Applicants: J. Aron & Company LLC.
Description: Notice of Non-Material Change in Status of J. Aron & Company LLC.
Filed Date: 1/17/19.
Accession Number: 20190117–5104.
Comments Due: 5 p.m. ET 2/7/19.

Docket Numbers: ER18–554–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report Carville Energy to be effective N/A.
Filed Date: 1/16/19.
Accession Number: 20190116–5150.
Comments Due: 5 p.m. ET 2/6/19.

Docket Numbers: ER18–1473–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report Pioneer Trail Wind Farm to be effective N/A.
Filed Date: 1/16/19.
Accession Number: 20190116–5151.
Comments Due: 5 p.m. ET 2/6/19.

Docket Numbers: ER19–34–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2019–01–18 Deficiency Response re Pseudo-Tie Congestion Overlap Phase 2 Filing to be effective 3/1/2019.
Filed Date: 1/18/19.
Accession Number: 20190118–5035.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–205–001.
Applicants: Dearborn Industrial Generation, L.L.C.
Description: Tariff Amendment: Response to Deficiency Letter to be effective 12/31/9998.
Filed Date: 1/18/19.
Accession Number: 20190118–5058.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–827–000.
Applicants: Montana-Dakota Utilities Co.
Description: § 205(d) Rate Filing: Notice of Succession to be effective 1/18/2019.
Filed Date: 1/17/19.
Accession Number: 20190117–5065.
Comments Due: 5 p.m. ET 2/7/19.

Docket Numbers: ER19–828–000.
Applicants: Solomon Forks Wind Project, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 3/19/2019.
Filed Date: 1/17/19.
Accession Number: 20190117–5083.
Comments Due: 5 p.m. ET 2/7/19.

Docket Numbers: ER19–830–000.
Applicants: Florida Power & Light Company.
Description: Notice of Termination of Agreements of Florida Power & Light Company.
Filed Date: 1/16/19.
Accession Number: 20190116–5154.
Comments Due: 5 p.m. ET 2/6/19.

Docket Numbers: ER19–831–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits one ECSA, Service Agreement No. 5202 to be effective 3/19/2019.
Filed Date: 1/18/19.
Accession Number: 20190118–5081.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–832–000.
Applicants: Duke Energy Florida, LLC.
Description: Tariff Cancellation: DEF Notice of Cancellation of Seven Jurisdictional Agreements to be effective 1/1/2014.
Filed Date: 1/18/19.
Accession Number: 20190118–5098.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–833–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC–NCMPA No. 1 NITSA (SA No. 212) Amendment to be effective 1/1/2019.
Filed Date: 1/18/19.
Accession Number: 20190118–5099.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–834–000.
Applicants: MDU Resources Group, Inc., Montana-Dakota Utilities Co.
Description: Petition for Waiver of Affiliate Pricing Rules of MDU Resources Group, Inc.
Filed Date: 1/17/19.

Accession Number: 20190117–5114.
Comments Due: 5 p.m. ET 2/7/19.

Docket Numbers: ER19–835–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP-French Broad EMC (RS No. 210) Amendment (State ADIT) to be effective 11/1/2018.
Filed Date: 1/18/19.
Accession Number: 20190118–5142.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–836–000.
Applicants: El Paso Electric Company.
Description: § 205(d) Rate Filing: Service Agreement No. 315, EDF PTP to be effective 3/19/2019.
Filed Date: 1/18/19.
Accession Number: 20190118–5170.
Comments Due: 5 p.m. ET 2/8/19.

Docket Numbers: ER19–837–000.
Applicants: C.P. Crane LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 1/19/2019.
Filed Date: 1/18/19.
Accession Number: 20190118–5172.
Comments Due: 5 p.m. ET 2/8/19.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC19–2–000.
Applicants: Ronaver Energy Limited.
Description: Foreign Utility Company Status of Ronaver Energy Limited.
Filed Date: 1/18/19.
Accession Number: 20190118–5082.
Comments Due: 5 p.m. ET 2/8/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 18, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00521 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR19–16–000]

Notice of Complaint: American Airlines, Inc. v. Colonial Pipeline Company

Take notice that on January 2, 2019, pursuant to sections 1(5), 6, 8, 9, 13, 15 and 16 of the Interstate Commerce Act,[1] section 1803 of the Energy Policy Act of 1992 (EPAct),[2] Rule 206 of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (Commission),[3] and Rules 343.1(a) and 343.2(c) of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings,[4] American Airlines, Inc. (Complainant) filed a formal complaint (complaint) against Colonial Pipeline Company (Colonial or Respondent) challenging the lawfulness of the rates charged by Colonial for transportation of petroleum products, including aviation kerosene and jet fuel, from all the origins to all destinations in the challenged tariffs, as more fully explained in the complaint.

The Complainant certify that a copy of the complaint was served on the contacts for the Respondent as listed on the official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

[1] 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15 and 16.
[2] Pub. L. 102–486, 106 Stat. 2772 (1992).
[3] 18 CFR 385.206 (2018).
[4] 18 CFR 343.1(a) and 343.2(c) (2018).

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 1, 2019.

Dated: January 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00536 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as

having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the 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. CP18–46–000	12–28–2018	Sheila McCarthy.
Exempt:		
1. P–2428–007, P–10254–026, P–10253–032.	1–2–2018	FERC Staff.[1]

Dated: January 8, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–00451 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–575–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 012419 Tariff Revision to Remove Expired Agreements to be effective 3/1/2019.

Filed Date: 1/24/19.

Accession Number: 20190124–5034.

Comments Due: 5 p.m. ET 2/5/19.

Docket Numbers: RP19–576–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: Compliance filing OFO Penalty Waiver Request.

Filed Date: 1/24/19.

Accession Number: 20190124–5049.

Comments Due: 5 p.m. ET 2/5/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–00540 Filed 1–30–19; 8:45 am]

BILLING CODE 6717–01–P

[1] Communications Memorandum dated 1/2/2018 forwarding email correspondence with Enel Green Power North America, Inc.

EXPORT-IMPORT BANK

[Public Notice: 2018–3024]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM will use this information to fulfill the statutory mandate (Export-Import Bank Act of 1945, as amended) which directs EXIM to report annually to the U.S. Congress on its competitiveness relative to the world's other major export credit agencies. As part of this report, the statutory mandate requires EXIM to conduct an annual survey of exporters and lenders who used Export-Import Bank's support during the prior calendar year. EXIM will use the responses to develop an analysis of the Bank's competitiveness.

The survey can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/EXIM_Competitiveness_Report_Survey.pdf.*

DATES: Comments should be received on or before March 4, 2019 to be considered.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* (EIB 00–02) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038 Attn: OMB 3048–14–01.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 00–02 Annual Competitiveness Report Survey of Exporters and Bankers.

OMB Number: 3048–0004.

Type of Review: Renewal.

Need and Use: This information will be used to fulfill the statutory mandate (Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635) which directs EXIM to report annually to the U.S. Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies. The Act further stipulates that the annual report on competitiveness should include the results of a survey of U.S. exporters and U.S. commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with U.S. exporters.

Affected Public:

The number of respondents: 150.

Estimated time per respondents: 90 minutes.

The frequency of response: Annually.

Annual hour burden: 225 total hours.

Government Expenses:

Reviewing time per response: 45 minutes.

Responses per year: 150.

Reviewing time per year: 112.5 hours.

Average Wages per hour: $42.50.

Average cost per year: $4,781.25 (time * wages).

Benefits and overhead: 20%.

Total Government Cost: $5,737.5.

Bassam Doughman,

IT Specialist.

[FR Doc. 2019–00404 Filed 1–30–19; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 10, 2019, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- December 13, 2018

B. Reports

- Auditor's Report on FCA FY 2018/2017 Financial Statements

Closed Session *

- Meeting with Auditors
- Report on 2018 FISMA Audit

Dated: January 3, 2019.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2019–00616 Filed 1–29–19; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Appointment of Chair and New FASAB Members

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that Mr. George Scott has been appointed to serve as the chair of the Federal Accounting Standards Advisory Board (FASAB or ''the Board'') beginning July 1, 2019. Mr. Scott's term will conclude on December 31, 2020, with the option for another five-year term.

Notice is also given that Ms. Sallyanne Harper and Dr. Terry Patton have been appointed to serve five-year terms as members of the Board beginning July 1, 2019.

The news releases are available on the FASAB website at *http://www.fasab.gov/news-releases/*. Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(2).

Dated: December 20, 2018.

Wendy M. Payne,

Executive Director.

[FR Doc. 2019–00496 Filed 1–30–19; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Federal Financial Accounting Technical Release 19, Rescission of Technical Release 8

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Federal Financial Accounting Technical Release (TR) 19, *Rescission of Technical Release 8.*

The TR is available on the FASAB website at *http://www.fasab.gov/accounting-standards/*. Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: January 15, 2019.

Wendy M. Payne,

Executive Director.

[FR Doc. 2019–00500 Filed 1–30–19; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA05

Notice of Inflation Adjustments for Civil Money Penalties

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Monetary Penalties 2019.

SUMMARY: The Federal Deposit Insurance Corporation is providing notice of its maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The adjusted maximum amounts of civil money penalties in this notice are applicable to penalties assessed after January 15, 2019, for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Graham N. Rehrig, Senior Attorney, Legal Division, (202) 898–3829, *grehrig@fdic.gov;* or Sydney Mayer, Attorney, Legal Division, (202) 898–3669, *smayer@fdic.gov;* Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: This notice announces changes to the maximum amount of each civil money penalty (CMP) within the Federal Deposit Insurance Corporation's (FDIC) jurisdiction to administer to account for inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),[1] as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act).[2] Under the 1990 Adjustment Act, as amended, federal agencies must make annual adjustments to the maximum amount of each CMP the agency administers. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation-adjustment multiplier (*i.e.,* the inflation-adjustment factor agencies must use) applicable to CMPs assessed in the following year.

Agencies are required to publish their CMPs, adjusted under the multiplier provided by the OMB, by January 15 of the applicable year. Agencies, like the FDIC, that have codified the statutory formula for making the CMP adjustments may make annual inflation adjustments by providing notice in the **Federal Register**.[3]

On December 14, 2018, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which guidance included the relevant inflation multiplier.[4] The FDIC has applied that multiplier to the maximum CMPs allowable in 2018 for FDIC-supervised institutions to calculate the maximum amount of CMPs that may be assessed by the FDIC in 2019.[5] There were no new statutory CMPs administered by the FDIC during 2018.

The following charts provide the inflation-adjusted maximum CMP amounts for use after January 15, 2019—the effective date of the 2019 annual adjustments—under 12 CFR part 308, for conduct occurring on or after November 2, 2015:

MAXIMUM CIVIL MONEY PENALTY AMOUNTS

U.S. code citation	Current maximum CMP (through January 14, 2019)	Adjusted maximum CMP[6] (beginning January 15, 2019)
12 U.S.C. 1464(v):		
Tier One CMP[7]	$3,928	$4,027.
Tier Two CMP	$39,278	$40,269.
Tier Three CMP[8]	$1,963,870	$2,013,399.
12 U.S.C. 1467(d)	$9,819	$10,067.
12 U.S.C. 1817(a):		
Tier One CMP[9]	$3,928	$4,027.
Tier Two CMP	$39,278	$40,269.
Tier Three CMP[10]	$1,963,870	$2,013,399.
12 U.S.C. 1817(c):		
Tier One CMP	$3,591	$3,682.
Tier Two CMP	$35,904	$36,809.
Tier Three CMP[11]	$1,795,216	$1,840,491.
12 U.S.C. 1817(j)(16):		
Tier One CMP	$9,819	$10,067.
Tier Two CMP	$49,096	$50,334.
Tier Three CMP[12]	$1,963,870	$2,013,399.
12 U.S.C. 1818(i)(2):[13]		
Tier One CMP	$9,819	$10,067.
Tier Two CMP	$49,096	$50,334.

[1] Public Law 101–410, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

[2] Public Law 114–74, 701(b), 129 Stat. 599, codified at 28 U.S.C. 2461 note.

[3] *See* Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–19–04, *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* 4 (2018), *https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf* (''OMB Guidance'').

[4] *See* OMB Guidance at 1 (providing an inflation multiplier of 1.02522).

[5] Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the FDIC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

[6] The maximum penalty amount is per day, unless otherwise indicated.

[7] 12 U.S.C. 1464(v) provides the maximum CMP amounts for the late filing of certain Call Reports. In 2012, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. *See* 77 FR 74573, 74576–78 (Dec. 17, 2012), to be re-codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

[8] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[9] 12 U.S.C. 1817(a) provides the maximum CMP amounts for the late filing of certain Call Reports. In 1991, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. *See* 56 FR 37968, 37992–93 (Aug. 9, 1991), to be re-codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

[10] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[11] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[12] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[13] These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2601, 2804(b), 3108(b), 3349(b), 4009(a), 4309(a), 4717(b); 15 U.S.C. 1607(a), 1681s(b), 1691(b), 1691c(a), 1693*o*(a); and 42 U.S.C. 3601.

[14] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[15] The $122-per-day maximum CMP under 12 U.S.C. 1828(h), for failure or refusal to pay any assessment, applies only when the assessment is less than $10,000. When the amount of the assessment is $10,000 or more, the maximum CMP under section 1828(h) is 1 percent of the amount of the assessment for each day that the failure or refusal continues.

[16] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[17] The maximum penalty amount for an institution is the greater of this amount or 1/100,000th of the institution's total assets.

[18] The maximum penalty amount for an institution is the greater of this amount or 1/50,000th of the institution's total assets.

[19] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

MAXIMUM CIVIL MONEY PENALTY AMOUNTS—Continued

U.S. code citation	Current maximum CMP (through January 14, 2019)	Adjusted maximum CMP [6] (beginning January 15, 2019)
Tier Three CMP [14]	$1,963,870	$2,013,399.
12 U.S.C. 1820(e)(4)	$8,977	$9,203.
12 U.S.C. 1820(k)(6)	$323,027	$331,174.
12 U.S.C. 1828(a)(3)	$122	$125.
12 U.S.C. 1828(h): [15]		
For assessments <$10,000	$122	$125.
12 U.S.C. 1829b(j)	$20,521	$21,039.
12 U.S.C. 1832(c)	$2,852	$2,924.
12 U.S.C. 1884	$285	$292.
12 U.S.C. 1972(2)(F):		
Tier One CMP	$9,819	$10,067.
Tier Two CMP	$49,096	$50,334.
Tier Three CMP [16]	$1,963,870	$2,013,399.
12 U.S.C. 3909(d)	$2,443	$2,505.
15 U.S.C. 78u–2:		
Tier One CMP (individuals)	$9,239	$9,472.
Tier One CMP (others)	$92,383	$94,713.
Tier Two CMP (individuals)	$92,383	$94,713.
Tier Two CMP (others)	$461,916	$473,566.
Tier Three CMP (individuals)	$184,767	$189,427.
Tier Three CMP (others)	$923,831	$947,130.
15 U.S.C. 1639e(k):		
First violation	$11,279	$11,563.
Subsequent violations	$22,556	$23,125.
31 U.S.C. 3802	$11,181	$11,463.
42 U.S.C. 4012a(f)	$2,133	$2,187.

CFR citation	Current presumptive CMP (through January 14, 2019)	Adjusted presumptive CMP (beginning January 15, 2019)
12 CFR 308.132(e)(1)(i):		
Institutions with $25 million or more in assets:		
1 to 15 days late	$538	$552.
16 or more days late	$1,078	$1,105.
Institutions with less than $25 million in assets:		
1 to 15 days late [17]	$180	$185.
16 or more days late [18]	$359	$368.
12 CFR 308.132(e)(1)(ii):		
Institutions with $25 million or more in assets:		
1 to 15 days late	$897	$920.
16 or more days late	$1,795	$1,840.
Institutions with less than $25 million in assets:		
1 to 15 days late	1/50,000th of the institution's total assets.	1/50,000th of the institution's total assets.
16 or more days late	1/25,000th of the institution's total assets.	1/25,000th of the institution's total assets.
12 CFR 308.132(e)(2)	$39,278	$40,269.
12 CFR 308.132(e)(3):		
Tier One CMP	$3,928	$4,027.
Tier Two CMP	$39,278	$40,269.
Tier Three CMP [19]	$1,963,870	$2,013,399.

Dated at Washington, DC, on December 21, 2018.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–00510 Filed 1–30–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receiverships

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS

Fund	Receivership name	City	State	Date of appointment of receiver
10144	Home Federal Savings Bank	Detroit	MI	11/06/2009

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS—Continued

Fund	Receivership name	City	State	Date of appointment of receiver
10214	Innovative Bank	Oakland	CA	04/16/2010

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this time frame.

Dated at Washington, DC, on January 28, 2019.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–00518 Filed 1–30–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0111]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collection described below (3064–0111). On November 2, 2018, the FDIC requested comment for 60 days on a proposal to renew the information collection described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this collection, and again invites comment on this renewal.

DATES: Comments must be submitted on or before March 4, 2019.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones (202–898–6768), Counsel, MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jennifer Jones, Counsel, 202–898–6768, *jennjones@fdic.gov,* MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On November 2, 2018, the FDIC requested comment for 60 days on a proposal to renew the information collection described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this collection, and again invites comment on this renewal.

Proposal to renew the following currently approved collection of information:

1. *Title:* Activities and Investments of Insured State Banks.

OMB Number: 3064–0111.

Form Number: None.

Affected Public: Insured state nonmember banks and insured state savings associations.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information Collection (IC) description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated number of responses	Estimated time per response	Frequency of response	Total annual estimated burden hours
Activities and Investments of Insured State Banks.	Reporting	Mandatory	23	1	8.00	On Occasion	184.00
Total Hourly Burden							184.00

General Description of Collection:

Section 24 of the Federal Deposit Insurance (FDI Act), 12 U.S.C. 1831a, limits investments and other activities in which state banks may engage, as principal, to those permissible for national banks and those approved by the FDIC under procedures set forth in part 362 of the FDIC's Rules and Regulations, 12 CFR part 362. With certain exceptions, section 24 of the FDI Act limits the activities and investments of state banks to those activities and investments that are permissible for national banks. In addition, the statute

prohibits a state bank from directly engaging, as a principal, in any activity or investment that is not permissible for a national bank, or indirectly through a subsidiary in an activity or investment that is not permissible for a subsidiary of a national bank, unless such bank meets its minimum capital requirements and the FDIC determines that the activity or investment does not pose a significant risk to the Deposit Insurance Fund (DIF). The FDIC can make such a determination for exception by regulation or by order. Section 28(a), 12 U.S.C. 1831e, similarly limits the investments and activities of state savings associations and their service corporations to those permitted by federal savings associations and their service corporations, absent FDIC approval. Part 362 details the activities that state banks or their subsidiaries may engage in, under certain criteria and conditions and identifies the information that state banks must furnish to the FDIC in order to obtain the FDIC's approval or non-objection. Part 362 also applies to the activities and investments of state savings associations and their subsidiaries.

There is no change in the method or substance of the collection. The overall reduction in burden hours is the result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

Request for Comment:

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the 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; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on January 28, 2019.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–00559 Filed 1–30–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Designated Reserve Ratio for 2019

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Designated Reserve Ratio for 2019.

Pursuant to the Federal Deposit Insurance Act, the Board of Directors of the Federal Deposit Insurance Corporation designates that the Designated Reserve Ratio (DRR) for the Deposit Insurance Fund shall remain at 2 percent for 2019.[1] The Board is publishing this notice as required by section 7(b)(3)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(A)(i)).

FOR FURTHER INFORMATION CONTACT: Ashley Mihalik, Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898–3793, *amihalik@fdic.gov;* Robert Grohal, Chief, Fund Analysis and Pricing Section, Division of Insurance and Research, (202) 898–6939, *rgrohal@fdic.gov;* or Nefretete Smith, Counsel, Legal Division, (202) 898–6851, *nefsmith@fdic.gov.*

Dated at Washington, DC, on December 18, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–00427 Filed 1–30–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, February 5, 2019 at 10:00 a.m. and its Continuation at the Conclusion of the Open Meeting on February 7, 2019.

PLACE: 1050 First Street NE, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

[1] Section 327.4(g) of the FDIC's regulations sets forth the DRR. There is no need to amend this provision because the DRR for 2019 is the same as the current DRR.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2019–00705 Filed 1–29–19; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Registration of a Securities Holding Company (FR 2082; OMB No. 7100–0347).

DATES: Comments must be submitted on or before April 1, 2019.

ADDRESSES: You may submit comments, identified by FR 2082, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove sensitive PII (personally identifiable information) at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in

order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal.

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Registration of a Securities Holding Company.

Agency form number: FR 2082.

OMB control number: 7100–0347.

Frequency: On occasion.

Respondents: Securities holding companies (SHCs).

Estimated number of respondents: 1.

Estimated average hours per response: 8.

Estimated annual burden hours: 8.

General description of report: Section 241.3(a)(1) of the Board's Regulation OO requires SHCs that elect to register to become supervised SHCs to file the appropriate registration form with the responsible Federal Reserve Bank. The registration form, FR 2082, requests from the registering SHC an organization chart (including all subsidiaries), shareholder reports and financial statements, information regarding the SHC's shareholders, senior officers and directors, information regarding the methods used by the SHC to monitor and control its operations, and information regarding the SHC's foreign bank subsidiaries and the bank regulatory system in which these foreign bank subsidiaries operate. The information collected by the FR 2082 registration form is used by the Federal Reserve System to determine whether the registrant meets the requirements to become a supervised SHC and to complete the registration. This information is not available from another source.[1]

Legal authorization and confidentiality: The FR 2082 registration form implemented by section 241.3(a) of Regulation OO, 12 CFR 241.3(a), is authorized by section 618(b)(2)(A) of the Dodd-Frank Act, 12 U.S.C. 1850a(b)(2)(A). Section 618(b)(2)(A) requires covered companies that elect to be supervised by the Board ''to register by filing with the Board of Governors such information and documents as the [Board], by regulation, may prescribe as necessary.'' The obligation to submit the FR 2082 registration form is required for covered companies that elect to register to become supervised SHCs on a one-time basis.

The information provided on the FR 2082 registration form and in connection with the SHC's registration is considered public. However, certain personal and biographical information on individuals, which is required to be submitted as part of the registration, may be treated as confidential under exemption 6 of the Freedom of Information Act (''FOIA''), which protects from disclosure information that ''would constitute a clearly unwarranted invasion of personal privacy'' (5 U.S.C. 552(b)(6)). In addition, certain information submitted in connection with the SHC's registration may be exempt from disclosure under exemption 4 of the FOIA, which protects confidential commercial or financial information that is reasonably likely to result in substantial competitive harm if disclosed (5 U.S.C. 552(b)(4)). If an SHC seeks confidential treatment of any information submitted as part of its registration under exemption 4 of the FOIA, the SHC must submit such a request in accordance with section 261.15 of the Board's Rules Regarding Availability of Information (12 CFR 261.15). In addition, information for which confidential treatment is sought under exemption 4 or 6 of the FOIA must be labelled as confidential, and a request for confidential treatment must be submitted in writing concurrently with the filing of the registration (or related submissions). The confidential treatment request must provide a detailed justification as to why confidential treatment is warranted for each portion of the registration (or submission) for which confidentiality is requested.

Board of Governors of the Federal Reserve System, January 17, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–00367 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

[1] The previous final **Federal Register** notice for the FR 2082 included a reference to section 241.3(b)(3)(i) of Regulation OO. This reference has been removed, because section 241.3(b)(3)(i) of Regulation OO does not include a collection of information. The removal of this reference does not impact the total annual burden estimate for the FR 2082, as no burden was associated with section 241.3(b)(3)(i) of Regulation OO.

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Application Form for Membership on the Community Advisory Council (Application) (FR 1401; OMB 7100–0371).

DATES: Comments must be submitted on or before April 1, 2019.

ADDRESSES: You may submit comments, identified by *FR 1401,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB delegated authority to extend for three years, without revision, the following information collection:

Report title: Application Form for Membership on the Community Advisory Council.

Agency form number: FR 1401.

OMB control number: 7100–037.

Frequency: Annually.

Respondents: Applicants who seek to be considered for Community Advisory Council membership.

Estimated number of respondents: 314.

Estimated average hours per response: 1.

Estimated annual burden hours: 314.

General description of report: The Application Form for Membership on the Community Advisory Council (Application) is used to obtain information about the experience and qualification of persons seeking to be considered for membership on the Board's Community Advisory Council (CAC).

Legal authorization and confidentiality: The Application is authorized pursuant to the Board's general authority to establish the CAC, which is derived from sections 2A and 10 of the Federal Reserve Act (FRA). Section 2A of the FRA requires the Board and the Federal Open Market Committee to ''maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates'' (12 U.S.C. 225a). Section 10 of the FRA authorizes the Board to ''determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid'' (12 U.S.C. 244). Applicants are required to provide information collected as part of the Application to be considered for CAC membership.

Information provided on the Application will be kept confidential under exemption 6 of the Freedom of Information Act (FOIA) to the extent that the disclosure of information ''would constitute a clearly unwarranted invasion of personal privacy'' (see 5 U.S.C. 552(b)(6)). For example, the release of information such as an applicant's address, home telephone number, and personal email address would likely constitute a clearly

unwarranted invasion of personal privacy and, therefore, be kept confidential under exemption 6 of the FOIA. However, the release of information such as the educational and professional qualifications of successful applicants would not likely constitute a clearly unwarranted invasion of personal privacy and may be disclosed under the FOIA. In addition, once a person becomes a member of the CAC, their name, and the name and location of the organization where they are employed, would generally be listed on the Board's public website.

Determinations regarding disclosure to third parties of any confidential portions of the information collection that are considered exempt under the FOIA would be made in accordance with the Privacy Act (see 5 U.S.C. 552a(b)). A hyperlink directing the applicant to the relevant Privacy Act statement is provided in the **Federal Register** notice and also when the applicant fills out the Application form on the Board's website. The Board may make disclosures in accordance with the Privacy Act's routine use disclosure provision, (see 5 U.S.C. 552a(a)(7) and (b)(3)), which permits the disclosure of a record for a purpose which is compatible with the purpose for which the record was collected. Such routine uses are listed in the Board's System of Records Notice that applies to this information collection, which can be found in BGFRS–39, FRB-General File of the Community Advisory Council, located here: *https://www.federalreserve.gov/files/BGFRS-39-general-file-of-the-community-advisory-council.pdf.*

Board of Governors of the Federal Reserve System, January 18, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–00365 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 19, 2019.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Starling Hollis Waldron, David K. Hollis, III, Alexander M. Waldron, Hollis M. Waldron, and Lily S. Waldron, Hahira, Georgia; Miller Starling Hollis, Valdosta, Georgia; and Howard I. Lawson, Morven, Georgia;* to retain voting shares of CCB Bancshares, Inc., and thereby indirectly retain voting shares of Citizens Community Bank, both in Hahira, Georgia.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *David J. Cecich, Crown Point, Indiana, and Steven H. Cecich, Grant Park, Illinois, collectively as a group acting in concert;* to acquire voting shares of First Community Bancorp, Inc., and thereby indirectly acquire shares of First Community Bank and Trust, both of Beecher, Illinois.

2. *Charles Sarazine, individually and on behalf of Maryanna Sarazine, both of Algona, Iowa, and together as a group acting in concert with: Annette Sarazine-Jensen, Omaha, Nebraska; Monte Jensen, Omaha, Nebraska; Lisa Elsenbast, Minneapolis, Minnesota; Frank Elsenbast, Minneapolis, Minnesota; Monica Anderegg, Edina, Minnesota; Julia T. Sarazine, Chicago, Illinois; James C. Spies, Graettinger, Iowa; Karen K. Spies, Graettinger, Iowa; Matt Spies, Spirit Lake, Iowa; Marty Spies, Spirit Lake, Iowa; Krista K. Fuller, Ankeny, Iowa; Lori J. Spies, Brookeville, Maryland; Nicole L. Henrickson, Spirit Lake, Iowa; Molly E. Westergard, Graettinger, Iowa; Samantha A. Spies, Spirit Lake, Iowa; Sydney P. Spies, Spirit Lake, Iowa;* to retain shares of Emmetsburg Bank Shares, Inc., Emmetsburg, Iowa, and indirectly retain shares of Iowa Trust & Savings Bank, Emmetsburg, Iowa and Panora State Bank, Panora, Iowa.

C. *Federal Reserve Bank of St. Louis* (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *The Fogleman Family Control Group, which consists of Franklin A. Fogleman, Gail Fogleman, Franklin Fogleman, Jr., Laura Fogleman, Lindley Fogleman, Mary Catherine Fogleman, Kelley Fogleman, Reed Fogleman Family Trust, W. David Fogleman, Jennifer Fogleman, Peyton Fogleman, Scott Fogleman, Shireen Fogleman, and Will D. Fogleman Jr., all of Marion, Arkansas;* to retain shares of FCB Financial Services, Inc., Marion, Arkansas, and thereby retain shares of First Community Bank of Eastern Arkansas, Marion, Arkansas.

2. *Michael D. East, individually, and as a member of a family control group that also includes Baylus East, the Estate of Harry East with Michael D. East as Executor, Gloria East, Michael D. East Jr., and Wilkes East, all of Marion, Arkansas;* to retain shares of FCB Financial Services, Inc., and thereby retain shares of First Community Bank both of Eastern Arkansas, Marion, Arkansas.

*D. Federal Reserve Bank of Minneapoli*s (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Cara J. Mulder, Wayzata, Minnesota;* to acquire voting shares of PSB Financial Shares, Inc., Prinsburg, Minnesota, and thereby indirectly acquire shares of PrinsBank, Prinsburg, Minnesota.

2. *Katherine Burgum Itterman, Fargo, North Dakota, and Fred J. Williams III, Fargo, North Dakota, as trustee of the Fred J. Williams III 2012 GST Trust, Fargo, North Dakota;* each to acquire shares of First Financial Corporation, and thereby indirectly acquire shares of Bank North, both of Arthur, North Dakota.

E. *Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Mary Reisher, Englewood, Colorado; and Nancy Reisher, Denver, Colorado;* to retain shares of FirstBank Holding Company, and thereby retain shares of First Bank, both in Lakewood, Colorado.

2. *John Jarrett Parker, Aberdeen, Washington, individually and as trustee of various family trusts;* to retain shares of Cleo Bancshares, Inc., and thereby indirectly retain shares of Cleo State Bank, both of Cleo Springs, Oklahoma.

3. *The 2019 Stephen Forrest Sturm Trust, Denver, Colorado, and John F. Knoeckel, Centennial, Colorado, individually and as trustee, and the 2019 Emily Sarah Sturm Trust, Denver, Colorado, and Patricia A. Pogge, Denver, Colorado, individually and as trustee;* to acquire voting shares and to be approved as members of the Sturm Control Group, and thereby acquire

shares of Sturm Financial Group, Inc., Denver, Colorado, and its subsidiary, ANB Bank, Denver, Colorado.

4. T*risha A. Robertson and Jeffrey S. Robertson, both of Beemer, Nebraska; Megan E. Moore and Douglas E. Moore, both of Fremont, Nebraska; Ryan D. Steffensmeier and Charissa J. Steffensmeier, both of West Point, Nebraska; Carol S. Steffensmeier, Norfolk, Nebraska; Saige E. Steffensmeier, Beemer, Nebraska; and Samuel D. Steffensmeier and Dana E. Steffensmeier, both of Beemer, Nebraska;* to retain shares of First Beemer Corporation, Beemer, Nebraska, and thereby be approved as members of the Steffensmeier Family Group, and thereby retain shares of First Beemer Corporation and its subsidiary, First Community Bank, Beemer, Nebraska.

5. *Blake A. Heid, Paola, Kansas, and Barbara A. Heid, Santa Rosa Beach, Florida;* as members of the Heid Family Group, to retain voting shares of The Osawatomie Agency, Inc., Osawatomie, Kansas, and thereby indirectly retain shares of First Option Bank, Osawatomie, Kansas.

6. *Peter M. Lewis, Recoleta, Santiago, RM, Chile;* to retain voting shares of The Osawatomie Agency, Inc., Osawatomie, Kansas, as a member of the Lewis Family Group, and thereby indirectly retain shares of First Option Bank, Osawatomie, Kansas.

F. *Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Arthur Haag Sherman, Millette Lewis Sherman, the Sherman 2018 Irrevocable Trust, and Sherman Tectonic FLP LP, all of Houston, Texas, as a group acting in concert;* to acquire shares of T Acquisition, Inc., and indirectly acquire T Bank, National Association, both of Dallas, Texas.

Board of Governors of the Federal Reserve System, January 25, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–00361 Filed 1–30–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Supervisory and Regulatory Survey (FR 3052; OMB No. 7100–0322).

FOR FURTHER INFORMATION CONTACT: 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.

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.

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. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following information collection:

Report title: Supervisory and Regulatory Survey.

Agency form number: FR 3052.

OMB control number: 7100–0322.

Frequency: On occasion.

Respondents: Bank holding companies (BHCs), state member banks (SMBs), savings and loan holding companies (SLHCs), intermediate holding companies, U.S. branches and agencies of foreign banking organizations (FBOs), Edge and agreement corporations, nonbank financial companies that the Financial Stability Oversight Council (FSOC) has determined should be supervised by the Board, or the combined domestic operations of FBOs.

Estimated number of respondents: 5,000.

Estimated average hours per response: 0.5 hours.

Estimated annual burden hours: 60,000 hours.

General description of report: The FR 3052 collects information from financial institutions specifically tailored to the Federal Reserve's supervisory, regulatory, and operational responsibilities. Examples of past surveys include collected information related to regulatory capital, operational risk loss event history, and transactions by securities dealers. The frequency and content of the questions depend on changing economic, regulatory, supervisory, or legislative developments.

The Board utilizes the survey process, as needed, to collect information on specific issues that affect its decision-making. The principal value of the FR 3052 is the flexibility it provides the Federal Reserve to respond quickly to the need for data due to unanticipated economic, financial, supervisory, or regulatory developments. The Board cannot predict what specific information will be needed, but such needs are generally very time sensitive. Because the relevant questions may change with each survey, there is no fixed reporting form.

Written qualitative questions or questionnaires may include categorical questions, yes-no questions, ordinal questions, and open-ended questions. Written quantitative surveys may include dollar amounts, percentages, numbers of items, interest rates, and other such information. Institutions may also be required to provide copies of existing documents (for example, pertaining to practices and performances for a particular business activity). Before conducting a survey, the Board reviews any information to be collected to determine if the information is available by other means.

The Board welcomes feedback from firms on surveys conducted under the FR 3052, both formally, through frequently asked questions, and informally via outreach sessions, ad-hoc discussions, and emails. As a general matter, the Board is unable to guarantee the release of surveys under the FR 3052 for notice and comment because of the quick turnarounds sometimes required. However, when a survey template is available in advance of the planned distribution date, the Board works to distribute the template to respondents early for information purposes, and when time allows, to obtain feedback.

Legal authorization and confidentiality: The FR 3052 is authorized pursuant to section 9 of the Federal Reserve Act (FRA) (12 U.S.C. 324) for SMBs; section 5 of the Bank Holding Company Act (12 U.S.C.

1844(c)(1)(A)) for BHCs and their subsidiaries; section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(1)) for SLHCs and their subsidiaries; section 7(c)(2) of International Banking Act (IBA) (12 U.S.C. 3105(c)(2)) for the U.S. branches and agencies of foreign banks; section 8 of the IBA (12 U.S.C. 3106) for foreign banking organizations; sections 25 and 25A of the FRA (12 U.S.C. 602 and 625) for Edge and agreement corporations; and section 161 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5361) for nonbank financial companies designated by FSOC for supervision by the Board.

The surveys would be conducted on a voluntary basis. The questions asked on each survey would vary, so the ability of the Board to maintain the confidentiality of information collected would be determined on a case by case basis. It is possible that the information collected would constitute confidential commercial or financial information, which may be kept confidential under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). In circumstances where the Board collects information related to individuals, exemption 6 of the FOIA would protect information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy'' (5 U.S.C. 552(b)(6)). To the extent the information collected relates to examination, operating, or condition reports prepared for the use of an agency supervising financial institutions, such information may be kept confidential under exemption 8 of the FOIA (5 U.S.C. 552(b)(8)).

Current actions: On August 28, 2018, the Board published a notice in the **Federal Register** (83 FR 43870) requesting public comment for 60 days on the extension, without revision, of the Supervisory and Regulatory Survey. The comment period for this notice expired on October 29, 2018. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, January 17, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–00364 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 28, 2019.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *NBC Bancorp, Inc.;* to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Coxsackie, both of Coxsackie, New York.

B. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *American National Bankshares, Inc., Danville, Virginia;* to acquire HomeTown Bankshares Corporation, and thereby indirectly acquire HomeTown Bank, both in Roanoke, Virginia, and thereby engage in mortgage lending pursuant to § 228.28 (b)(6).

In connection with this proposal, Applicant has applied to acquire at least 49 percent of HomeTown Residential Mortgage, LLC, Virginia Beach, Virginia.

C. *Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Midwest Bancorp, Inc., Chicago, Illinois;* to acquire 100 percent of the voting shares of Bridgeview Bancorp, Inc. and thereby indirectly acquire Bridgeview Bank Group, both of Bridgeview, Illinois.

D. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *BankFirst Capital Corporation, Macon, Mississippi;* to merge with FNB Bancshares of Central Alabama, Inc., and thereby indirectly acquire FNB of Central Alabama, both in Aliceville, Alabama.

E. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *FSB Financial Corp., Valliant, Oklahoma;* to become a bank holding company by acquiring voting share of First State Bank, Valliant, Oklahoma.

F. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Relationship Bancshares, Inc., Carrollton, Texas;* to become a bank holding company by acquiring Capital Bank of Texas, Carrizo Springs, Texas.

Board of Governors of the Federal Reserve System, January 25, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–00362 Filed 1–30–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Policy Impact Survey (FR 3075 OMB No. 7100–00362).

FOR FURTHER INFORMATION CONTACT: 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.

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.

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. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following information collection:

Report title: Policy Impact Survey.

Agency form number: FR 3075.

OMB control number: 7100–0362.

Frequency: On occasion, up to five times a year.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), nonbank financial companies that the Financial Stability Oversight Council has determined should be supervised by the Board, and the combined domestic operations of foreign banking organizations.

Estimated number of respondents: 14.

Estimated average hours per response: 850 hours.

Estimated annual burden hours: 59,500 hours.

General description of report: This survey collects information from select institutions regulated by the Board in order to assess the effects of proposed, pending, or recently-adopted policy changes at the domestic and international levels. For example, the survey has been used to collect information used for certain quantitative impact studies (QISs) sponsored by bodies that the Board is a member of, such as the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB). Recent collections have included the Basel III monitoring exercise, which monitors the global impact of the Basel III framework,[1] the global systemically important bank (G–SIB) exercise, which assesses firms' systemic risk profiles,[2] and a survey of the domestic systemic risk footprint of large foreign banking organizations. The surveys have helped the Board assess changes in regulation related to systemic footprint, insurance underwriting, and trading book securitization, among other areas. Since the collected data may change from survey to survey, there is no fixed reporting form.

Legal authorization and confidentiality: The Board is authorized to collect the information in the FR 3075 from bank holding companies (and their subsidiaries) under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); from savings and loan holding companies under section 10(b)(2) of the Home Owners Loan Act (12 U.S.C. 1467a(b)(2)); from non-BHC/SLHC systemically important financial institutions under section 161(a) of the Dodd-Frank Act (12 U.S.C. 5361(a)); from the combined domestic operations of certain foreign banking organizations under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) and section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); from state member banks under section 9 of the Federal Reserve Act (12 U.S.C. 324); from Edge and agreement corporations under sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 602 and 625); and from U.S. branches and agencies of foreign banks under section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2)) and section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)).

These surveys would be conducted on a voluntary basis. The confidentiality of information provided by respondents to the FR 3075 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. Depending upon the survey questions, confidential treatment may be warranted under exemptions 4, 6, and 8 of the Freedom of Information Act (5 U.S.C. 552(b)(4), (6), and (8)).

Current actions: On February 16, 2018, the Board published a notice in the **Federal Register** (83 FR 7038) requesting public comment for 60 days on the extension, without revision, of the Policy Impact Survey. The comment period for this notice expired on April 17, 2018. The Board received one comment from a trade association.

Detailed Discussion of Public Comments

The commenter expressed appreciation for QISs, and indicated that members of trade associations continue to participate in the voluntary surveys because of the surveys' importance for the calibration of international standards. The commenter included five recommendations for helping the Board maximize the utility of QISs.

The commenter's first recommendation was that the Board work with the Basel Committee to move QIS submission due dates to quarters, such as the second quarter, during which stress testing and other regulatory reporting requirements do not require significant resources from respondent institutions. Although the timeline for development of QISs is not under the Board's control, the Board has communicated the commenter's concern regarding the timing of QIS submission dates to the Basel Committee QIS working group. In cases where there is flexibility to move a QIS submission date by one or two weeks, the Board will work with the Basel Committee to avoid coincidence with significant reporting deadlines to the extent feasible. However, because the typical timeframe for the entire QIS process is six months and the international working groups often require three or more months to develop a QIS, the Board has a limited window for submission dates that would allow for cleaning the data and a full analysis of results.

The commenter's second and third recommendations were to leverage data available from other reporting forms to gather data that respondents would otherwise report on the QIS, and, to the extent feasible, to minimize inconsistency between QIS definitions and established market and regulatory definitions. The Board agrees that the goals of minimizing duplication and promoting consistent definitions are worthwhile. To minimize duplication, the Board already periodically reviews QISs and eliminates data items that have become available through other reporting channels. The Board will continue to work with the sponsoring body of a collection to identify established market and regulatory definitions and to minimize any inconsistency when feasible.

The commenter's fourth recommendation was to release for notice and comment any QIS that gathers data for the purpose of

[1] For more information on the Basel III monitoring exercise, including recent examples of QIS surveys sponsored by the BCBS and conducted by the Board, see *www.bis.org/bcbs/qis/*.

[2] For more information on the G–SIB exercise, see *www.bis.org/bcbs/gsib/*.

calibrating international standards. The Board welcomes feedback on current and future QISs from firms both formally, through frequently asked questions (FAQs), and informally via newly instituted QIS outreach sessions, ad hoc discussions, and emails. As a general matter, however, the Board is unable to guarantee the release of QISs for notice and comment because international working groups often require three or more months to develop QISs, and the typical timeframe for the entire QIS process is six months. The full notice-and-comment period under the PRA for information collections is 60 days. In order to alter such a proposed QIS prior to its finalization, the international working groups that develop the QIS would need to reconvene and the development process would need to be reopened. Given these constraints, the Board may have insufficient time to conduct the final survey and analyze the results within the typical six-month QIS timeframe. However, when a QIS template is available in advance of the planned distribution date, the Board works to distribute the templates to respondents early for information purposes, and when time allows, to obtain feedback. The Board has sent several proposed collections to firms for feedback in advance of the due date, including the end-December 2017 Basel Monitoring collection, and the newly proposed Basel III Monitoring Capital and Liquidity collections. Upon receiving feedback from firms, the Board, in conjunction with the Basel Committee QIS working group, often revises the templates and applies the feedback to subsequent templates in order to enhance the relevance and quality of collected data.

The commenter's final recommendation was for the Board to recognize QIS data limitations when applying international standards to U.S. institutions. The commenter noted the example of a QIS for the largest financial institutions in connection with Basel III, arguing that it did not capture the impact of the proposals on all segments of the U.S. banking sector, its customers, and the broader U.S. economy. The Board recognizes the limitations of QIS data and confirms that QISs are a tool that serves as a starting point for assessing the impact of proposals.

The information collection will be extended without revision as proposed.

Board of Governors of the Federal Reserve System, January 17, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–00366 Filed 1–30–19; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–WSCC–2019–01; Docket 2019–0004; Sequence No. 1]

Women's Suffrage Centennial Commission; Notification of Public Meeting

AGENCY: Women's Suffrage Centennial Commission, General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: Notice of this meeting is being provided according to the requirements of the Federal Advisory Committee Act. This notice provides the schedule and agenda for the February meeting of the Women's Suffrage Centennial Commission (Commission). The meeting is open to the public.

DATES: *Meeting date:* The meeting will be held on Wednesday, February 27, 2019, beginning at 9:00 a.m. (Eastern Standard Time), and ending no later than 5:00 p.m., EST.

ADDRESSES: The meeting will be held at the National Archives, 700 Pennsylvania Avenue NW, Washington, DC 20408. In the event that the partial lapse in appropriations shutdown is still in effect, the meeting will still be held on the scheduled date, February 27, 2019, but the contingency location will be: Library of Congress, Madison Building, 101 Independence Ave. SE, Washington, DC 20540, Sixth Floor, Dining Room A.

FOR FURTHER INFORMATION CONTACT: Rebecca Kleefisch, Executive Director, Women's Suffrage Centennial Commission, P.O. Box 2020, Washington, DC 20013; email: *rebecca@womensvote100.org;* telephone: 262–349–2990.

SUPPLEMENTARY INFORMATION:

Background

Congress passed legislation to create the Women's Suffrage Centennial Commission Act, a bill, ''to ensure a suitable observance of the centennial of the passage and ratification of the 19th Amendment of the Constitution of the United States providing for women's suffrage.''

The duties of the Commission, as written in the law, include: (1) To encourage, plan, develop, and execute programs, projects, and activities to commemorate the centennial of the passage and ratification of the 19th Amendment; (2) To encourage private organizations and State and local Governments to organize and participate in activities commemorating the centennial of the passage and ratification of the 19th Amendment; (3) To facilitate and coordinate activities throughout the United States relating to the centennial of the passage and ratification of the 19th Amendment; (4) To serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of the passage and ratification of the 19th Amendment; and (5) To develop recommendations for Congress and the President for commemorating the centennial of the passage and ratification of the 19th Amendment.

Meeting Agenda

☐ Welcome
☐ Approval of Minutes
☐ Update on WSCC personnel
☐ Update on WSCC activities
☐ Adjourn

The meeting is open to the public, but preregistration is required. Any individual who wishes to attend the meeting should register via email at *rebecca@womensvote100.org;* Individuals requiring special accommodations to access the public meeting should contact Rebecca Kleefisch no later than Monday, February 18, 2019, so that appropriate arrangements can be made. Interested persons may choose to make a public comment at the meeting during the designated time for this purpose. Members of the public may also choose to submit written comments by mailing them to Rebecca Kleefisch, Executive Director, Women's Suffrage Centennial Commission, P.O. Box 2020, Washington, DC 20013; or by emailing *rebecca@womensvote100.org.*

Please contact Rebecca Kleefisch at the email address above to obtain meeting materials. All written comments received will be provided to the Commission.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Dated: January 25, 2019.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 2019–00296 Filed 1–30–19; 8:45 am]

BILLING CODE 3420–37–P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Medicare Payment Advisory Commission (MedPAC) Nominations

AGENCY: U.S. Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. GAO is now accepting nominations for MedPAC appointments that will be effective May 2019. Nominations should be sent to the email or mailing address listed below. Acknowledgement of submissions will be provided within a week of submission.

DATES: Letters of nomination and resumes should be submitted no later than March 8, 2019, to ensure adequate opportunity for review and consideration of nominees prior to appointment.

ADDRESSES: Submit letters of nomination and resumes by either of the following methods: Email: *MedPACappointments@gao.gov* or Mail: U.S. GAO, Attn: MedPAC Appointments, 441 G Street NW, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Will Black at (202) 512–6482 or *blackw@gao.gov* if you do not receive an acknowledgement or need additional information. For general information, contact GAO's Office of Public Affairs, (202) 512–4800.

Authority: 42 U.S.C. 1395b–6.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2019–00571 Filed 1–30–19; 8:45 am]

BILLING CODE 1610–02–P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Medicaid and CHIP Payment and Access Commission (MACPAC) Nominations

AGENCY: U.S. Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) established MACPAC to review Medicaid and CHIP access and payment policies and to advise Congress on issues affecting Medicaid and CHIP. CHIPRA gave the Comptroller General of the United States responsibility for appointing MACPAC's members. GAO is now accepting nominations for MACPAC appointments that will be effective May 1, 2019. Nominations should be sent to the email or mailing address listed below. Acknowledgement of submissions will be provided within a week of submission.

DATES: Letters of nomination and resumes should be submitted no later than February 20, 2019, to ensure adequate opportunity for review and consideration of nominees prior to appointment.

ADDRESSES: Submit letters of nomination and resumes by either of the following methods: Email: *MACPACappointments@gao.gov* or Mail: U.S. GAO, Attn: MACPAC Appointments, 441 G Street NW, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Susan Anthony at (312) 220–7666 or *anthonys@gao.gov* if you do not receive an acknowledgment or need additional information. For general information, contact GAO's Office of Public Affairs, (202) 512–4800.

Authority: Public Law 111–3, sec. 506; 42 U.S.C. 1396.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2019–00572 Filed 1–30–19; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of agency guidance.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) is publishing this guidance for dog owners and importers who seek to admit a dog without a valid rabies vaccination certificate into the United States. Under current regulations, all dogs admitted into the United States must be accompanied by a valid rabies vaccination certificate unless the dog's owner or importer submits satisfactory evidence that the dog has only been in a rabies-free country if it is less than 6 months old or has only been in a rabies-free country for the 6 months before arrival if it is older than 6 months. Through this guidance, CDC is clarifying that it interprets ''rabies-free'' for the purposes of dog importation to mean ''canine rabies virus variant (CRVV)-free.'' For all other public health purposes, CDC will continue to apply the general definition of ''rabies free,'' which includes and reflects the rabies status of all terrestrial animals and not just dogs. This guidance further describes the considerations taken into account by experts in determining whether a country qualifies as CRVV-free. This notice also informs dog owners and importers on where to locate up-to-date information on a country's CRVV status to facilitate a dog's entry or re-entry into the United States.

DATES: This guidance will be implemented on January 31, 2019.

FOR FURTHER INFORMATION CONTACT:

For information regarding this notice contact: Ashley A. Altenburger, J.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–H16–4, Atlanta, GA 30329.

For information regarding CDC operations related to this notice contact: Kendra Stauffer, D.V.M., Division of Global Migration and Quarantine, Centers for Disease Control and-Prevention, 1600 Clifton Road NE, MS–V–18–2, Atlanta, GA 30329. Either person may also be reached by

telephone 404–498–1600 or email *CDCAnimalImports@cdc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Current Operations

Under section 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 264), the Secretary of Health and Human Services may make and enforce such regulations as in his or her judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States and from one State or possession into any other State or possession. Since 1956, Federal quarantine regulations (currently found at 42 CFR 71.51) have controlled the entry of dogs into the United States (21 FR 9870). One of the principal goals of these regulations is to prevent the introduction and spread of rabies into the United States. While the United States continues to have bat rabies lyssavirus (rabies viruses that are enzootic to bat populations) and multiple terrestrial variants of rabies circulating in wildlife species (*e.g.* fox, raccoon, skunk), it has been free of CRVV since 2007 and now focuses its efforts on preventing the reintroduction of the CRVV rabies variant.

In accordance with 42 CFR 71.51(c)(1)(i), CDC maintains a current, publicly available list of rabies-free countries to assist dog owners and importers in understanding its dog importation requirements. Under this provision, CDC also has the authority to deny entry to an inadequately immunized dog from a country that is not listed as ''rabies free'' or if the dog was not born in (or spent at least the last 6 months before arrival in) a country that is considered ''rabies-free.'' Under such circumstances, the dog's owner or importer assumes the costs of returning the dog to its country of origin unless the owner or importer is eligible to receive a dog confinement agreement (79 FR 39403).

Prior to today's clarification, owners or importers of dogs from countries with a low (or zero) prevalence of CRVV but which report some incidences of terrestrial or other rabies virus variants were required to provide proof of rabies vaccination for entry into the United States because such countries were not considered ''rabies-free.'' 42 CFR 71.51 defines ''valid rabies vaccination certificate'' for purposes of demonstrating when a dog is considered adequately immunized. Thus, as discussed in more detail in Section IV, dog owners and importers wishing to import dogs from CRVV-free or low-risk countries were potentially subject to relatively high costs and burdens related to presenting a valid rabies vaccination certificate at ports of entry compared to the extremely low risk of importing a dog with CRVV from these CRVV-free or low-risk countries. Furthermore, because having low or zero prevalence of CRVV was not sufficient for a country to be considered ''rabies-free,'' rabies prevention efforts at U.S. borders were weakened as attention, in part, was diverted away from dogs coming from countries that pose a more significant risk of re-introducing CRVV into the United States. These policies also created public confusion concerning when an unvaccinated dog could be legally imported into the United States, as reflected by the number of public inquiries and appeals from denials of permission to import a dog. Thus, CDC has reassessed and clarified its policy to better focus on the risk of importing CRVV into the United States. Today's clarification seeks to address these issues. We have worked closely with our partners at the federal, state, and local levels to secure support and ensure a seamless transition.

II. New CRVV Risk Categories

Upon the publication of this guidance, CDC will shift enforcement of its United States dog importation regulations from the risk of dogs importing rabies of any variant to the risk of dogs importing CRVV into the United States. This clarification allows federal authorities to better focus their resources on preventing the reintroduction of CRVV from countries that pose the greatest risk. Specifically, CDC now identifies countries as CRVV-free, CRVV low-risk, or CRVV high-risk. For purposes of dog importation, these terms are defined as follows:

- CRVV-free means that CDC has assessed the country as not having CRVV present, based on internationally accepted standards.
- Low-risk means the country is at low risk for CRVV transmission based on the following considerations: The virus is limited to a localized area, surveillance and dog vaccination programs are adequate, and the virus is in a controlled status with the country heading toward eventual CRVV-free status.
- High-risk means the country is at high risk for CRVV transmission as demonstrated by the presence and geographic distribution of the virus and by low quality of or low confidence in the country's surveillance systems and its dog vaccination programs.

Owners and importers importing a dog from CRVV-free or low-risk countries will not need a rabies vaccination certificate for the dog to be admitted into the United States, although they will still be subject to the requirements set forth in 42 CFR 71.51(c)(1). Owners and importers importing a dog from a high-risk country will be required to have a valid rabies vaccination certificate.

We note that today's guidance is limited to the definition of ''rabies-free'' as it relates to the importation of CRVV by dogs. This guidance does not nor will not affect CDC's interpretation or application of the term ''rabies free'' for other public health purposes, which will continue to include and reflect the rabies status of all terrestrial animals and not just dogs.

III. Provisions of This Notice

Upon the publication of this guidance, under 42 CFR 71.51, CDC will add or remove countries from its list of rabies-free countries based on the country's risk of importing CRVV into the United States. CDC rabies subject matter experts have reviewed (and continue to review) publicly available country data to estimate the risk posed of reintroducing CRVV into the United States. Data considered in this decision include peer-reviewed publications, publicly available government reports, data and recommendations from international agencies such as the World Health Organization and the World Organization for Animal Health, as well as information provided from global rabies experts.[1] CDC subject matter experts also consider the quality of rabies surveillance systems in the country, the prevalence of reported cases of rabies in humans and animals, characterization of rabies virus genomes, and efforts towards control of the disease in dogs (*i.e.,* dog vaccination coverage, population management, and enforcement of legal codes to curb rabies transmission in dogs). CDC intends to review relevant data on a yearly basis, revise prior risk classifications when new information becomes available, and publish its list of country rabies classifications, including CRVV-free countries, on its website at *https://www.cdc.gov/rabies/resources/index.html.*

In keeping with current practice, if a dog that is not adequately immunized against rabies arrives at a U.S. port of entry from a country that CDC considers a high-risk for CRVV transmission (See *https://www.cdc.gov/importation/*

[1] World Organisation for Animal Health. Ch 1.4 Animal Health Surveillance. In: Terrestrial Animal Health Code 27th ed; 2018. Available from: *http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_surveillance_general.htm.* Accessed August 31, 2018.

bringing-an-animal-into-the-united-states/rabies-vaccine.html), the dog will be returned to its country of origin immediately under standard operating procedures at U.S. ports of entry. CDC also will not issue a dog confinement agreement under 42 CFR 71.51(c)(2) and 79 FR 39403 (July 10, 2014) for dogs imported from high-risk CRVV countries. Regardless of vaccination status or country from which imported, CDC may require confinement of dogs that do not appear to be healthy and allow the owner an opportunity to arrange for a public health assessment by a local veterinarian at the owner's expense (42 CFR 71.51(b)(1),(2)). If unhealthy dogs are not adequately immunized against rabies, the dogs will be: (a) Returned to their country of origin once healthy enough for travel, (b) euthanized and tested for rabies, or (c) admitted if there is not a public health threat and the dogs, upon entry, were adequately immunized against rabies. In keeping with current practice, importers should continue to check with state and local government officials regarding requirements of the final destination prior to entry or re-entry into the United States; this new federal policy is not intended to invalidate or supersede such requirements. The policy and program operations described above will be implemented on January 31, 2019.

IV. Economic Impact of Policy Clarification

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (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, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs.

The proposed clarification to HHS/CDC guidance described in the preamble is not a regulatory change, but is expected to affect costs for dog importers/owners, airlines, Department of Homeland Security/Customs and Border Protection (DHS/CBP), Department of Health and Human Services/Centers for Disease Control and Prevention (HHS/CDC), and state and local public health departments (PHDs). As noted above, owners and importers importing a dog will still be subject to the requirements set forth in 42 CFR 71.51. However, owners and importers importing dogs from CRVV-free or low-risk countries will no longer need a valid rabies vaccination certificate for the dogs to be admitted into the United States because in this new guidance CDC is revising how it interprets rabies-free for purposes of applying 42 CFR 71.51(c)(1)(i). In the economic analysis, HHS/CDC compares the costs set forth in this notice (''new guidance'') to the costs under the guidance in effect immediately before publication of this notice (''previous guidance''). Owners and importers importing dogs from high-risk countries will still be required to have a valid rabies vaccination certificate for the dogs to enter the United States. This clarification in guidance will reduce the burden to import dogs into the United States from CRVV-free and low-risk countries, and it is anticipated that the costs to import dogs and inspect dogs at ports of entry (POEs) will be reduced. In addition, HHS/CDC expects that considerably fewer Permits to Import a Dog Inadequately Immunized against Rabies (OMB No. 0920–0134) [2] will be sought and issued and that the costs of confinement, as required by the permits, will be reduced. These benefits (reduced costs) are estimated relative to the baseline in which the HHS/CDC guidance is not clarified.

The new guidance may slightly increase the probability that a dog infected with CRVV would be imported into the United States from a CRVV-free or low-risk country and that an imported dog could expose U.S. persons or animals and trigger a public health response with associated costs. However, HHS/CDC believes that there is a very small risk of importation of a rabies-infected dog from a country that is either CRVV-free or classified as low-risk under the new guidance. CRVV-free countries do not have CRVV circulating by definition. Mexico is considered a low-risk country and has only reported 11 dogs with CRVV during 2015 and 2016, the two most recent years with available data. Only three dogs with CRVV were identified in Mexico in the most recent year, 2016.[3]

In addition, HHS/CDC believes that the potentially increased risk of rabies importation from a CRVV-free or low-risk country may be offset by the ability of DHS/CBP officers and HHS/CDC staff to better focus efforts on reducing the risk of rabies-infected dogs being imported from CRRV high-risk countries. Among dogs from high-risk countries, the CRVV incidence rate may approach 2 dogs per 1,000 per year in countries with low rabies vaccination coverage.[4] During the past 15 years, six CRVV-infected dogs were imported into the United States. All of these imports were from countries where CRVV, at the time, was widely circulating,[5] [6] [7] [8] [9] which would be considered high-risk under this new guidance.

Baseline Under the Previous Guidance

When dogs enter the United States from terrestrial rabies virus-free countries or with proof of immunization, such dogs are not routinely tracked in any data systems. With limited data available on dog importations, estimating both the baseline and the change relative to the baseline is difficult. HHS/CDC estimates that about 1.06 million dogs (Table 1) enter the United States each year including 700,000 arriving at airports and 360,000 arriving at land border POEs with Canada and Mexico. In total, 795,492 imported dogs (75% of all imported dogs) are estimated to arrive from CRRV-free or low-risk countries. The remaining 269,303 dogs are from high-risk countries (108,303) or from terrestrial rabies virus-free countries (161,000). Dogs from terrestrial rabies virus-free countries would not require valid rabies vaccination certificates under either the previous or new guidance. For additional details, refer to Section 2 of the supplemental appendix.

Under the previous guidance (baseline), each dog would be screened at U.S. ports of entry. DHS/CBP field officers at U.S. POEs would review rabies immunization documents, review permits for unimmunized dogs, issue dog confinement agreements for dogs allowed to enter the United States without documentation of vaccination

[2] *https://www.cdc.gov/importation/pdf/Unimmunized-Dog-Permit-Application.pdf.* Accessed August 31, 2018.

[3] Ma, X., et al. (2018). ''Rabies surveillance in the United States during 2016.'' JAVMA 252(8): 945–957.

[4] Hampson, K., et al. (2015). ''Estimating the Global Burden of Endemic Canine Rabies.'' *PLoS Negl Trop Dis* 9(4): e0003709.

[5] Castrodale, L., et al. (2008). ''Rabies in a Puppy Imported from India to the USA, March 2007.'' Zoonoses Public Health 55: 427–430.

[6] Mangieri, N., et al. (2008). ''Rabies in a dog imported from Iraq—New Jersey, June 2008.'' MMWR 57(39): 1076–1078.

[7] Manning, S., et al. (2008). ''Human Rabies Prevention—United States, 2008 Recommendations of the Advisory Committee on Immunization Practices.'' MMWR 57(RR03): 1–26.

[8] Sinclair, J. R., et al. (2014). ''Dogs Entering the United States from Rabies-Endemic Countries, 2011–2012.'' Zoonoses Public Health 62: 393–400.

[9] Sinclair, J. R., et al. (2015). ''Rabies in a Dog Imported from Egypt with a Falsified Rabies Vaccination Certificate—Virginia, 2015.'' MMWR 64(49): 1359–1362.

or permits, and may deny entry for dogs from CRVV-free, low-risk or high-risk countries. Specifically, HHS/CDC estimated that, each year:

- 791,301 dogs (99.5% of the total from CRVV-free or low-risk countries) enter the United States with rabies immunization certificates.
  - For each dog, DHS/CBP field officers have reported that either 1 or 2 officers spend about 8 minutes to screen each dog of which 3–4 minutes per dog are spent reviewing the rabies immunization certificate and verifying documentation with other agency/official when needed. For more detail on the baseline cost calculations refer to Tables A7a–b, A8a–b, A13, and A14 of the supplemental appendix.
- 2,492 dogs enter the United States with HHS/CDC-issued permits for dogs from CRVV-free or low-risk countries.
  - For each permit, importers were estimated to spend 15–60 minutes to apply and HHS/CDC staff to spend about an hour for review and follow up. 1–2 DHS/CBP officers were estimated to spend 11 minutes per dog of which about 6 minutes are spent to review each permit at POEs. For more detail on the baseline cost calculations refer to Appendix Tables A7a–b, A8a–b, A13, A14, A16 and A17 of the supplemental appendix.
  - After entering the United States, importers were also assumed to spend time confining dogs and state or local health departments were assumed to spend time to contact importers to monitor confinement requirements. For more detail on the baseline cost calculations refer to Tables A11 and A20 of the supplemental appendix.
- 1,378 dogs from CRVV-free and low-risk countries enter the U.S. with DHS/CBP-issued dog confinement agreements (DCAs).
  - 1–2 DHS/CBP officers were estimated to spend 26 minutes per dog of which 20 minutes are spent to issue DCAs at POEs inclusive of time to call HHS/CDC officers for technical support. Importers would also spend time to confine dogs and state/local health departments would follow up and monitor. For more detail on the baseline cost calculations refer to Appendix Tables A7a–b, A8a–b, A13, and A14 of the supplemental appendix.
- 322 dogs from CRVV-free and low-risk countries were denied entry at POEs because of lack of rabies immunization under the previous guidance. In addition to importers and DHS/CBP, the costs associated with denial of entry may also be incurred by airlines to transport dogs back to their country of origin. For more detail on the baseline cost calculations refer to Tables A9, A10, A13, and A14 of the supplemental appendix.

TABLE 1—ESTIMATED AVERAGE ANNUAL NUMBERS OF DOG IMPORTS BY COUNTRY AND BY IMMUNIZATION STATUS

Baseline estimate of dog imports	Best estimate	Lower bound [b]	Upper bound [c]
Airports [a]	700,000	560,000	840,000
From rabies-free countries	161,000	128,800	193,200
From CRVV-free countries	235,900	188,720	283,080
Dogs with rabies vaccination certificates	234,750	187,800	281,700
Dogs with unimmunized dog permits	920	736	1,104
Dogs with DCAs	62	50	74
Dogs denied entry	168	134	202
From CRVV low-risk countries under new guidance	196,000	128,800	277,200
Dogs with rabies vaccination certificates	195,910	128,728	277,092
Dogs with DCAs	48	38	58
Dogs denied entry	42	34	50
From CRVV high-risk countries	107,100	113,680	86,520
Dogs with rabies vaccination certificates	106,634	113,307	85,961
Dogs with DCAs	12	10	14
Dogs denied entry	454	363	545
Land borders	364,796	324,036	405,555
Canada–US land borders	122,000	97,600	146,400
Dogs with rabies vaccination certificates	120,344	96,275	144,413
Dogs from Canada, other CRVV-free or low-risk countries	119,141	94,350	143,691
Dogs from high-risk countries	1,203	1,926	722
Dogs with unimmunized dog permits	1,572	1,258	1,886
Dogs with DCAs	84	67	101
Dogs denied entry	0	0	0
Mexico–US land borders	242,796	226,436	259,155
Dogs with rabies vaccination certificates	241,500	225,400	257,600
Dogs with DCAs	1,184	947	1,420
Dogs denied entry	112	90	134
Total	1,064,796	884,036	1,245,555

[a] DHS/CBP field staff provided estimates of the proportions of dogs from (1) rabies-free countries (23%) (2) CRVV-free countries (34%), (3) CRVV low-risk countries under the new guidance, including Mexico and Israel (28%), and (4) CRVV high-risk countries (15%, these countries are considered high-risk under both the previous and new guidance).

[b] For the lower bound estimate, it was assumed that a larger proportion of dogs arrive from high-risk countries, which would result in less benefits (reduced costs) from the clarification in guidance. For the lower bound the following proportions are used: (3) CRVV low-risk countries under the new guidance, including Mexico and Israel (23%), (4) CRVV high-risk countries (20%).

[c] For the upper bound estimate, it was assumed that a larger proportion of dogs arrive from countries that will be considered low-risk in the new guidance, which would result in more benefits (reduced costs) from the clarification in guidance. For the upper bound the following proportions are used: (3) CRVV low-risk countries under the new guidance, including Mexico and Israel (33%), (4) high-risk countries (10%).

Estimated Costs and Benefits (Reduced Costs) Associated With Clarification in Guidance

Under the new guidance, each dog would be screened at U.S. ports of entry. However, DHS/CBP field officers at U.S. POEs will no longer need to review rabies immunization documents, review permits for unimmunized dogs, issue dog confinement agreements for dogs allowed to enter the United States without rabies vaccination certificates or permits or deny entry for dogs from CRVV-free or low-risk countries (due to lack of valid rabies vaccination certificate) unless these dogs had traveled from a high-risk country to the CRVV-free or low-risk country within the previous six months.

The range of estimated annualized benefits (reduced costs) associated with the clarification in guidance are about $2.6 million to $11.0 million, most likely estimate $6.1 million (Table 2). The largest potential benefits (reduced costs) accrue to federal agencies (DHS/CBP and HHS/CDC), which would spend less time reviewing permit requests and reviewing immunization documents or permits at ports of entry ($2.0 million to $8.3 million) per year. For more information on the model used to estimate costs and benefits (reduced costs) for DHS/CBP and HHS/CDC, refer to Sections 4 and 5 of the supplemental appendix. Importers/owners from CRVV-free or low-risk countries would spend less time applying for a Permit to Import a Dog Inadequately Immunized against Rabies (OMB No. 0920–0134), providing documentation at POEs, and confining dogs. As a result, they would save an estimated $470,000 to $2.3 million per year. For more information on the model used to estimate costs and benefits (reduced costs) for importer/owners, refer to Section 3 of the supplemental appendix. Potential state and local governments' benefits (reduced costs) will depend on the amount of effort spent enforcing dog confinement agreements after importation from CRVV-free countries or countries under the previous guidance that now will be classified as low-risk under the new guidance. With limited data on enforcement, state and local governments are estimated to save between $120,000 and $350,000 annually in reduced costs of monitoring confinement of unimmunized dogs. For more information on the model used to estimate benefits (reduced costs) for state and local health departments, refer to Section 6 of the supplemental appendix. Airlines would also have some benefits (reduced costs) associated with transporting dogs denied entry and abandoned by importers/owners or their agents. Refer to Table A9 in Section 3 of the supplemental appendix for additional details.

The estimated costs associated with this clarification in guidance result from a one-time increase in DHS/CBP training costs during the first year of implementation ($700,000, range: $430,000 to $2.6 million). When annualized over a 10 year period with a 3% discount rate, this would correspond to $80,000 (range: $49,000 to $300,000). More information is available in Appendix Table A15 of the supplemental appendix. Importers/owners, who bring dogs from high-risk countries, were estimated to spend more time at airport and land border POEs (3–10 minutes per dog for importers and 3–17 minutes per dog for CBP staff) because CBP staff reported that they would spend more time on dogs from high-risk countries. This additional time was estimated to correspond to an opportunity cost of $120,000 to $480,000 per year (Tables A7b and A8b of the supplemental appendix).

TABLE 2—SUMMARY TABLE

[In $2017 dollars, over a 10-year time horizon]

Category	Most likely estimate	Lower bound estimate	Upper bound estimate	Source citation
Benefits:				
Annualized monetized benefit to importers/owners (3% discount rate) [a].	$1,478,057	$469,678	$2,300,409	RIA (Appendix Section 3).
Annualized monetized benefit to airlines (3% discount rate).	22,680	4,536	61,236	RIA (Appendix Section 3, Table A9).
Annualized monetized benefit to DHS/CBP	4,007,188	1,849,245	7,441,556	RIA (Appendix Section 4).
Annualized monetized benefit to HHS/CDC	391,982	115,893	829,398	RIA (Appendix Section 5).
Annualized monetized benefit to Sates and local PHDs	218,511	116,633	349,479	RIA (Appendix Section 6).
Total annualized monetized benefits (3% discount rate).	6,118,418	2,555,984	10,982,077	RIA.
Annualized quantified, but unmonetized, benefits	The estimated response costs estimate associated with a dog imported while infected with CRVV are $213,833, range $171,066 to $256,599. If the additional time spent screening dogs from high-risk countries leads to a reduced risk of the importation of a dog with CRVV, future response costs may decrease.			RIA (Appendix Sections 7 and 8).
Costs:				
Annualized monetized costs to Importers/owners (3% discount rate) [b].	$375,450	$121,172	$479,487	RIA (Appendix Section 3, Tables A7b and A8b).
Annualized monetized costs to DHS/CBP (3% discount rate) [c].	79,154	49,278	295,666	RIA (Appendix Section 4, Table A15).
Total annualized monetized costs (3% discount rate).	454,604	170,449	775,053	RIA.

TABLE 2—SUMMARY TABLE—Continued

[In $2017 dollars, over a 10-year time horizon]

Category	Most likely estimate	Lower bound estimate	Upper bound estimate	Source citation
Annual quantified, but unmonetized, costs	The estimated response costs estimate associated with a dog imported while infected with CRVV are $213,833, range $171,066 to $256,599. If eliminating the rabies vaccine certificate requirement for dogs from CRVV-free or low-risk countries leads to an increased risk of the importation of a dog with CRVV, future response costs may increase.			RIA (Appendix Section 7).
Qualitative (unquantified costs)	State and local governments may have to increase efforts to educate their populations about dog vaccination requirements in the absence of the HHS/CDC requirement for rabies vaccination certificates for dogs to enter from CRVV-free or low-risk countries under the previous guidance.			NA.

Notes:
[a] Importers/owners who bring dogs from CRVV-free or low-risk countries.
[b] Importers/owners who bring dogs from high-risk countries.
[c] Costs for DHS/CBP training is one-time costs during the first year of implementation.

Over a 10-year time horizon, the total benefits (reduced costs) associated with this clarification in guidance depend on the discount rate selected (3%) to value future benefits (reduced costs). The 10-year time horizon was chosen because countries may become CRVV-free or revert to being high-risk over time. Because limited data exist to estimate the number of dogs imported to the United States at present, HHS/CDC did not attempt to project future dog imports, but instead applied estimates of imported dogs in 2017 to future years. If the number of imported dogs would instead increase in future years, the benefits (reduced costs) from this clarification in guidance would be underestimated.

The most likely estimate of the present value of the 10-year benefits (reduced costs) is $52.2 million at a 3% discount rate (Table 3). The lower bound estimate is $21.8 million and the upper bound estimate is $93.7 million. In comparison, the 10-year costs are estimated at $3.9 million, range $1.5 million to $6.6 million. The 10-year net benefits (*i.e.,* benefits − costs) are estimated at $48.3 million, range ($20.3 million to $87.1 million).

TABLE 3—PRESENT VALUE SUMMARY TABLE

[In $ million 2017 dollars, over a 10-year time horizon, 3% discount rate]

	Most likely estimate	Lower bound	Upper bound
Present value of cost savings:			
Importers/owners [a]	$12.6	$4.0	$19.6
Airlines	0.2	0.04	0.5
DHS/CBP	34.2	15.8	63.5
HHS/CDC	3.3	1.0	7.1
States and local health departments	1.9	1.0	3.0
Total (A)	52.2	21.8	93.7
Present value of costs:			
Importers/owners [b]	3.2	1.0	4.1
DHS/CBP [c]	0.7	0.4	2.5
Total (B)	3.9	1.5	6.6
Present value of net cost savings:			
Total (A) − (B)	48.3	20.3	87.1

Notes:
[a] Importers/owners who bring dogs from CRVV-free or low-risk countries.
[b] Importers/owners who bring dogs from high-risk countries.
[c] Costs for DHS/CBP training is a one-time cost during the first year of implementation.

Comparison of Costs and Benefits

As discussed above, HHS/CDC believes the risk of an importation of a dog with CRVV from a country defined as low-risk under the new guidance is extremely low. As noted previously, during the past 15 years, six CRVV-infected dogs were imported into the United States and all of these imports were from high-risk countries. HHS/CDC notes that if dogs travel from a high-risk country to a CRVV-free or low-risk country within six months of U.S. entry, the dogs would still have to present a certificate of rabies vaccination at entry. State and local governments would face the greatest

costs to mount responses in the event of an importation of a dog with CRVV. In addition, individuals or their insurance companies may face costs associated with post-exposure prophylaxis if they are exposed to the imported dog.

A threshold analysis was performed to compare the potential annualized costs and benefits of the clarification to the guidance to the potential cost of an importation of a dog with CRVV. To perform the threshold analysis, HHS/CDC compared the most likely estimate, lower bound, and upper bound of the annual net benefits (reduced costs) of the new guidance to the potential costs of an importation and calculated the annual risk of importation necessary for costs to equal benefits (reduced costs).

HHS/CDC rabies subject matter experts estimate that the public health response would require about 800 hours per event for investigation, providing post-exposure prophylaxis to about 16 people exposed to the infected dog after importation, and addressing 30 animal exposures per importation. The net benefits (reduced costs) estimate can be compared to the estimated response costs associated with a dog imported while infected with CRVV ($213,833, range $171,066 to $256,599). See Section 7 of the supplemental appendix for additional details on this cost estimate. This response cost does not include the small risk that a person could die after becoming infected with the rabies virus in the absence of receiving post-exposure prophylaxis. Although U.S. residents have died after exposure to rabid dogs in other countries, no such deaths have resulted from exposures to U.S. dogs since CRVV was eliminated in the United States in 2007. The probability of such a death cannot be quantified, but is expected to be very low under either scenario.

Expected net benefits (reduced costs) would exceed the potential costs associated with the importation of a dog with CRVV if fewer than 26 dogs per year with CRVV are imported from countries classified as CRVV-free or low-risk under the new guidance using the most likely estimates. In the worst case scenario, the lower bound estimate of annualized benefits (reduced costs, $2.6 million) minus the upper bound estimate of annualized costs ($780,000) results in an annualized net benefit of about $1.8 million. This worst case annualized net benefit can be compared to the upper bound cost estimate associated with the importation of a dog with CRVV ($256,599 per event) to estimate a worst case scenario threshold (6.9 dogs per year).

This threshold analysis can be compared to surveillance data from Mexico, a country that is considered low-risk. Mexico only identified 11 dogs over the previous 2 years in which surveillance data were available.[10] Thus, even if all of the dogs found with CRVV in Mexico over the past two years had been imported to the United States, the response costs would have fallen under the threshold result. Even in the worst case scenario, it is extremely unlikely that costs will exceed benefits as a result of this clarification in guidance. As noted above, HHS/CDC also believes that any increased risk of importation from a CRVV-free or low-risk country may be offset by allowing DHS/CBP officers to spend more time evaluating dogs entering the United States from high-risk countries. DHS/CBP officers reported that they expected to increase the amount of time spent on dogs from high-risk countries by 3–17 minutes per dog under the new guidance. By refocusing screening effort at U.S. POEs from dogs from CRVV-free or low-risk countries to dogs from high-risk countries, the overall risk of importation of a dog with CRVV may be reduced.

Possible Additional Activities by State or Local Governments

As noted throughout this FRN, importers should continue to check with state and local government officials regarding requirements of the final destination prior to entry or re-entry into the United States; this new federal policy is not intended to invalidate or supersede such requirements. State and local governments may also have to increase efforts to educate their populations about their dog vaccination requirements in the absence of the HHS/CDC requirement for proof of rabies vaccination for dogs to enter from CRVV-free or low-risk countries under the previous guidance. However, HHS/CDC was not able to estimate any costs associated with these efforts.

V. Paperwork Reduction Act

This clarification does not institute a new collection of information. The collection of information, has been previously approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned the following OMB control number: Foreign Quarantine: OMB Control No. 0920–0134, expiration date 5/31/2019.

[10] Ma, X., et al. (2018). ''Rabies surveillance in the United States during 2016.'' JAVMA 252(8): 945–957.

Dated: January 28, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–00506 Filed 1–30–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—Funding Opportunity Announcement (FOA), PAR 16–098, Cooperative Research Agreements to the World Trade Center Health Program (U01).

Dates and Times: March 27, 2019, 8:00 a.m.–5:00 p.m., EDT and March 28, 2019, 8:00 a.m.–12:00 p.m., EDT.

Place: Hampton Inn & Suites Atlanta Buckhead, 3312 Piedmont Road, Atlanta, Georgia 30305, Telephone: (404) 816–7309.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Nina Turner, Ph.D., Scientific Review Officer, CDC/NIOSH, 1095 Willowdale Road, Mailstop L10555, Morgantown, West Virginia 26505, (304) 285–5975, *nxt2@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–00274 Filed 1–30–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2018–0085, Docket Number NIOSH–319]

Partnership Opportunity To Identify Products for Fentanyl Exposure in Personal Protective Equipment Information Database; Reopening of the Comment Period

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 and reopening of comment period.

SUMMARY: On October 18, 2018 the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** [83 FR 52834] announcing the availability of a *Partnership Opportunity to Identify Products for Fentanyl Exposure in Personal Protective Equipment Information Database.* Written comments were to be received by November 19, 2018. In response to requests from interested parties, NIOSH is announcing the reopening of the comment period.

DATES: Electronic or written comments must be received by April 1, 2019.

FOR FURTHER INFORMATION CONTACT: *ppeconcerns@cdc.gov,* NIOSH, National Personal Protective Technology Laboratory, Office of the Director, 626 Cochrans Mill Road, Pittsburgh PA 15236, 1–888–654–2294 (a toll free number).

ADDRESSES: You may submit comments, identified by CDC–2018–0085 and Docket Number NIOSH–319, by either of the following two methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Dated: January 23, 2019.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2019–00229 Filed 1–30–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10330, CMS–10673, CMS–906, CMS–10433, CMS–276 and CMS–10694 and CMS–P–0015A]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human 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 (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 April 1, 2019.

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 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 N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10330 Enrollment Opportunity Notice Relating to Lifetime Limits; Required Notice of Rescission of Coverage; and Disclosure Requirements for Patient Protection under the Affordable Care Act

CMS–10379 Rate Increase Disclosure and Review Requirements (45 CFR part 154)

CMS–10673 Medicare Advantage Qualifying Payment Arrangement Incentive (MAQI) Demonstration

CMS–906 The Fiscal Soundness Reporting Requirements

CMS–276 Prepaid Health Plan Cost Report

CMS–10694 Testing of Web Survey Design and Administration for CMS Experience of Care Surveys

CMS–P–0015A Medicare Current Beneficiary Survey

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:* Extension; *Title of Information Collection:* Enrollment Opportunity Notice Relating to Lifetime Limits; Required Notice of Rescission of Coverage; and Disclosure Requirements for Patient Protection under the Affordable Care Act; *Use:* Sections 2712 and 2719A of the Public Health Service Act, as added by the Affordable Care Act, and the interim final regulations titled ''Patient Protection and Affordable Care Act: Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections'' (75 FR 37188, June 28, 2010) contain rescission notice, and patient protection disclosure requirements that are subject to the Paperwork Reduction Act of 1995. The rescission notice will be used by health plans to provide advance notice to certain individuals that their coverage may be rescinded as a result of fraud or intentional misrepresentation of material fact. The patient protection notification will be used by health plans to inform certain individuals of their right to choose a primary care provider or pediatrician and to use obstetrical/gynecological services without prior authorization.

The related provisions are finalized in the final regulations titled ''Final Rules under the Affordable Care Act for Grandfathered Plans, Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, Dependent Coverage, Appeals, and Patient Protections''. The final regulations also require that, if State law prohibits balance billing, or a plan or issuer is contractually responsible for any amounts balanced billed by an out-of-network emergency services provider, a plan or issuer must provide a participant, beneficiary or enrollee adequate and prominent notice of their lack of financial responsibility with respect to amounts balanced billed in order to prevent inadvertent payment by the individual. *Form Number:* CMS–10330 (OMB control number: 0938–1094); *Frequency:* Occasionally; *Affected Public:* Private Sector, State, Local, or Tribal Governments; *Number of Respondents:* 920; *Total Annual Responses:* 71,268; *Total Annual Hours:* 524. (For policy questions regarding this collection contact Usree Bandyopadhyay at 410–786–6650.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage Qualifying Payment Arrangement Incentive (MAQI) Demonstration; *Use:* The Centers for Medicare & Medicaid Services (CMS) is testing a demonstration, under Section 402 of the Social Security Amendments of 1967 (as amended), entitled the Medicare Advantage Qualifying Payment Arrangement Incentive (MAQI) Demonstration (''the Demonstration''). The MAQI demonstration tests whether providing exclusions from the Merit-based Incentive Payment System (MIPS) reporting requirements, payment adjustments, and performance feedback (collectively, the ''MIPS exclusions'') for eligible clinicians who participate to a sufficient degree in certain payment arrangements with Medicare Advantage Organizations (MAOs) (combined with participation, if any, in Advanced Alternative Payment Models (APMs) with Medicare Fee-for-Service (FFS)) will increase or maintain participation in payment arrangements with MAOs similar to Advanced APMs and change the manner in which clinicians deliver care.

Clinicians may currently participate in one of two paths of the Quality Payment Program (QPP): (1) MIPS, which adjusts Medicare payments based on combined performance on measures of quality, cost, improvement activities, and advancing care information, or (2) Advanced Alternative Payment Models with Medicare (Advanced APMs), under which eligible clinicians may earn an incentive payment for sufficient participation in certain payment arrangements with Medicare fee-for-service (FFS) and other payers, and starting in the 2019 performance period, with other payers such as Medicare Advantage, commercial payers, and Medicaid managed care. To participate in the Advanced APM path of QPP for a given year and earn an incentive payment, eligible clinicians must meet the criteria of Qualifying APM Participants (QPs); in addition to earning an APM incentive payment, QPs are excluded from the MIPS reporting requirements and payment adjustment.

An eligible clinician that does not meet the criteria to be a QP for a given year will be subject to MIPS for that year unless the clinician meets certain other MIPS exclusion criteria, such as being newly enrolled in Medicare or meeting the low volume threshold for Medicare FFS patients, payments and services. The MAQI Demonstration allows participating eligible clinicians to have the opportunity to receive the MIPS exclusions for a given year if they participate to a sufficient degree in certain Qualifying Payment Arrangements with MAOs (and Advanced APMs with Medicare FFS) during the performance period for that year, without requiring them to be QPs or otherwise meet the MIPS exclusion criteria of QPP. Under this Demonstration, clinicians are not required to have a minimum amount of participation in an Advanced APM with Medicare FFS in order to receive the MIPS exclusions for a year, but if they did have participation in Advanced APMs with Medicare FFS, that participation will also be counted towards the thresholds that trigger the provision of MIPS exclusions under the demonstration.

The first performance period for the Demonstration was 2018 and the Demonstration will last up to five years. Clinicians who meet the definition of an eligible clinician under QPP, as defined under 42 CFR 414.1305, are eligible to participate in the MAQI Demonstration. Participation will last the duration of the Demonstration, unless participation is voluntarily or involuntarily terminated under the terms and conditions of the Demonstration. Demonstration participants will have the opportunity to submit the required documentation and be evaluated for the MIPS exclusions each year. If Demonstration participants submit information, but do not meet the conditions of the Demonstration, their participation in the Demonstration will not be terminated, but they will not receive the MIPS exclusions. Therefore, unless they become QPs or are excluded from MIPS for other reasons, the participating clinicians will be subject to MIPS and will face the MIPS payment adjustments for the applicable year.

In order to conduct an evaluation and effectively implement the MAQI Demonstration, CMS must collect information from Demonstration participants on (a) payment arrangements with MAOs and (b) Medicare Advantage (MA) payments and patient counts. CMS requires a new collection of this information as this information is not already available through other sources. The information collected in these forms will allow CMS to evaluate whether the payment arrangement(s) that clinicians have with MAOs meet the Qualifying Payment Arrangement criteria, and determine whether a clinician's MAO and FFS APM patient population or payments meet demonstration thresholds. Both of these areas are also requirements for review and data collection under QPP (*i.e.* the Eligible Clinician-Initiated Other Payer Advanced APM Determination form and All-Payer QP

Submission form), and therefore similar forms have been prepared and reviewed under the QPP.

Given these similarities in forms, burden estimates for the MAQI Demonstration PRA package were derived from burden analyses and formulation done in conjunction with the QPP forms; more specifically the estimated burden associated with the submission of payment arrangement information for Other Payer Advanced APM Determinations. CMS estimates the total hour burden per respondent for the MAQI demonstration to be 15 hours or less, to match the hours listed in the equivalent QPP forms. Full detail of how these estimates were derived can be found in the published (83 FR 59452).

Based on public comments, we have revised the collection instruments to include modifications to allow Taxpayer Identification Numbers (TIN) level participation and greater functionality for organization/authorized representatives to submit on behalf of their clinicians. *Form Number:* CMS–10673 (OMB control number: 0938–1354; *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 100,000; *Total Annual Responses*: 100,000; *Total Annual Hours:* 1,500,000. (For policy questions regarding this collection contact John Amoh at *john.amoh@cms.hhs.gov*.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* The Fiscal Soundness Reporting Requirements; *Use:* All contracting organizations must submit audited annual financial statements one time per year. In addition, to the audited annual submission, Health Plans with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth must file quarterly financial statements for fiscal soundness monitoring. Part D organizations are required to submit three (3) quarterly financial statements. Lastly, PACE organizations are required to file four (4) quarterly financial statements for the first three (3) years in the program. After the first three (3) years, PACE organizations with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth must submit quarterly financial statements for fiscal soundness monitoring. CMS is responsible for overseeing the ongoing financial performance for all Medicare Health Plans, PDPs, and PACE organizations. Specifically, CMS needs the requested information collected in order to establish that contracting entities within those programs maintain fiscally sound operations. *Form Number:* CMS–906 (OMB control number: 0938–0469); *Frequency:* Yearly; *Affected Public:* Business or other for-profits, Not-for profits institutions; *Number of Respondents:* 767; *Total Annual Responses:* 1589; *Total Annual Hours:* 530. (For policy questions regarding this collection contact Christa Zalewski at 410–786–1971.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Information Collection Requirements for Compliance with Individual and Group Market Reforms under Title XXVII of the Public Health Service Act; *Use:* Sections 2723 and 2761 of the Public Health Service Act (PHS Act) direct the Centers for Medicare and Medicaid Services (CMS) to enforce a provision (or provisions) of title XXVII of the PHS Act (including the implementing regulations in parts 144, 146, 147, and 148 of title 45 of the Code of Federal Regulations) with respect to health insurance issuers when a state has notified CMS that it has not enacted legislation to enforce or that it is not otherwise enforcing a provision (or provisions) of the group and individual market reforms with respect to health insurance issuers, or when CMS has determined that a state is not substantially enforcing one or more of those provisions. Section 2723 of the PHS Act directs CMS to enforce an applicable provision (or applicable provisions) of title XXVII of the PHS Act (including the implementing regulations in parts 146 and 147 of title 45 of the Code of Federal Regulations) with respect to group health plans that are non-Federal governmental plans. This collection of information includes requirements that are necessary for CMS to conduct compliance review activities.

The Department of the Treasury, the Department of Labor, and the Department of Health and Human Services (collectively, the Departments) issued proposed regulations titled ''Health Reimbursement Arrangements and Other Account-Based Group Health Plans'' under section 2711 of the PHS Act and the health nondiscrimination provisions of HIPAA, Public Law 104–191 (HIPAA nondiscrimination provisions.) The proposed regulations are intended to expand the usability of health reimbursement arrangements and other account-based group health plans (collectively referred to as HRAs). In general, the proposed regulations would expand the usability of HRAs by eliminating the current prohibition on integrating HRAs with individual health insurance coverage, thereby permitting employers to offer HRAs to employees enrolled in individual health insurance coverage. Under the proposed regulations employees would be permitted to use amounts in an HRA integrated with individual health insurance coverage to pay expenses for medical care (including premiums for individual health insurance coverage), subject to certain requirements. This collection includes the requirements related to substantiation of individual health insurance coverage by an HRA prior to making reimbursements and the notice that HRAs would be required to provide to each participant. *Form Number:* CMS–10430 (OMB control number: 0938–0702); *Frequency:* Annually; *Affected Public:* State Governments, Private Sector, State or local governments; *Number of Respondents:* 2,785; *Total Annual Responses:* 298,175; *Total Annual Hours:* 7,737. (For policy questions regarding this collection contact Usree Bandyopadhyay at 410–786–6650.)

5. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Prepaid Health Plan Cost Report; *Use:* Health Maintenance Organizations and Competitive Medical Plans (HMO/CMPs) contracting with the Secretary under Section 1876 of the Social Security Act are required to submit a budget and enrollment forecast, semi-annual interim report, 4th Quarter interim report (CMS has waived this annual submission), and a final certified cost report in accordance with 42 CFR 417.572–417.576. The submission, receipt and processing of the cost reports is imperative to determine if MCOs are paid on a reasonable basis for the covered services furnished to Medicare enrollees. CMS reviews the data submitted within the cost reports to establish monthly payment rates, monitor interim rates, and determine the final reimbursement. Health Care Prepayment Plans (HCPPs) contracting with the Secretary under Section 1833 of the Social Security Act are required to submit a budget and enrollment forecast, semi-annual interim report, and final cost report in accordance with 42 CFR 417.808 and 42 CFR 417.810. *Form Number:* CMS–276 (OMB control number: 0938–0165); *Frequency:* Quarterly; *Affected Public:* Businesses or other for-profits, Not-for-profit institutions; *Number of Respondents:* 57; *Total Annual Responses:* 67; *Total Annual Hours:* 1,800. (For policy

questions regarding this collection, contact Bilal Farrakh at 410–786–4456.)

6. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Testing of Web Survey Design and Administration for CMS Experience of Care Surveys; *Use:* This collection is a new generic clearance request which encompasses an array of research activities to add web administration protocols to a series of surveys conducted by the Centers for Medicare & Medicaid Services (CMS). This request seeks burden hours to allow CMS and its contractors to conduct cognitive in-depth interviews, focus groups, pilot tests, and usability studies to support a variety of methodological studies around web modes of data collection for programs such as the Emergency Department Experience of Care (EDPEC), Fee-for-Service (FFS) Consumer Assessment of Healthcare Providers and Systems (CAHPS), Hospital CAHPS (HCAHPS), Medicare Advantage and Prescription Drug (MA & PDP) CAHPS, Home Health (HH) CAHPS, Hospice CAHPS, In-Center Hemodialysis (ICH) CAHPS, the Health Outcomes Survey (HOS), and the Medicare Advantage and Part D Plan Disenrollment Reasons surveys. Providers. *Form Number:* CMS–10694 (OMB control number: 0938-New); *Frequency:* Yearly; *Affected Public:* Business or other for-profits, Not-for-Profit Institutions; *Number of Respondents:* 75,250; *Total Annual Responses:* 75,250; *Total Annual Hours:* 17,000. (For policy, questions regarding this collection contact Elizabeth H. Goldstein at 410–786–6665.)

7. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey; *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also aims to put patients first in the delivery of their health care needs.

The Medicare Current Beneficiary Survey (MCBS) is the most comprehensive and complete survey available on the Medicare population and is essential in capturing data not otherwise collected through our operations. The MCBS is an in-person, nationally-representative, longitudinal survey of Medicare beneficiaries that we sponsor and is directed by the Office of Enterprise Data and Analytics (OEDA). The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with our administrative data (*e.g.* fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 26 years, encompassing over 1 million interviews and more than 100,000 survey participants. Respondents participate in up to 11 interviews over a four year period. This gives a comprehensive picture of health care costs and utilization over a period of time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and our external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2020, this proposed revision to the clearance will add a few new measures to existing questionnaire sections. The revisions will result in a slight decrease in respondent burden of 4%, due to fewer projected completed cases each round. *Form Number:* CMS–P–0015A (OMB control number: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 13,656; *Total Annual Responses:* 35,998; *Total Annual Hours:* 42,610. (For policy questions regarding this collection contact William Long at 410–786–7927.)

Dated: January 28, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–00433 Filed 1–30–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–262, CMS–224–14, CMS–R–240, CMS–10164, CMS–2552–10, CMS–R–306, CMS–10684, CMS–10237, CMS–10524 and CMS–10511]

Agency Information Collection Activities: Submission for OMB Review; 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 (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 March 4, 2019.

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 website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/*

PaperworkReductionActof1995/PRA-Listing.html.

1. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham 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:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Contract Year 2020 Plan Benefit Package (PBP) Software and Formulary Submission; *Use:* CMS requires that MA and PDP organizations submit a completed Plan Benefit Package (PBP) and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits. Additionally, CMS uses the PBP and formulary data to review and approve the plan benefit packages proposed by each MA and PDP organization. This allows CMS to review the benefit packages in a consistent way across all submitted bids during with incredibly tight timeframes. This data is also used to populate data on Medicare Plan Finder, which allows beneficiaries to access and compare Medicare Advantage and Prescription Drug plans. *Form Numbe*r: CMS–R–262 (OMB control number 0938–0763); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profit institution; *Number of Respondents:* 570; *Total Annual Responses:* 6,760; *Total Annual Hours:* 65,354.50 (For policy questions regarding this collection contact Kristy Holtje at 410–786–2209.)

2. *Title of Information Collection:* Federal Qualified Health Center Cost Report; *Type of Information Collection Request:* Extension of a currently approved collection; *Use:* Under the authority of sections 1815(a) and 1833(e) of the Act, CMS requires that providers of services participating in the Medicare program submit information to determine costs for health care services rendered to Medicare beneficiaries. Furthermore, these sections of the Act provide that no Medicare payments will be made to a provider unless it furnishes the information. CMS requires that providers follow reasonable cost principles under 1861(v)(1)(A) of the Act when completing the Medicare cost report. Under the regulations at 42 CFR 413.20 and 413.24, CMS defines adequate cost data and requires cost reports from providers on an annual basis. The Form CMS–224–14 cost report is needed to determine a provider's reasonable cost incurred in furnishing medical services to Medicare beneficiaries and to calculate the FQHC settlement amount. These providers, paid under the FQHC prospective payment system (PPS), may receive reimbursement outside of the PPS for Medicare reimbursable bad debts and pneumococcal and influenza vaccines. The FQHC cost report is also used for rate setting and payment refinement activities, including developing a FQHC market basket. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the FQHC Medicare cost report data to calculate Medicare margins, to formulate recommendations to Congress regarding the FQHC PPS, and to conduct additional analysis of the FQHC PPS. *Form Number:* CMS–224–14 (OMB control number: 0938–1298); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 2,240; *Number of Responses:* 2,240; *Total Annual Hours:* 129,920. (For questions regarding this collection contact Julie Stankivic at (410) 786–5725.)

3. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Prospective Payments for Hospital Outpatient Services; *Use:* Section 1833(t) of the Act, as added by section 4523 of the Balanced Budget Act of 1997 (the BBA) requires the Secretary to establish a prospective payment system (PPS) for hospital outpatient services. Successful implementation of an outpatient PPS requires that CMS distinguish facilities or organizations that function as departments of hospitals from those that are freestanding, so that CMS can determine which services should be paid under the OPPS, the clinical laboratory fee schedule, or other payment provisions applicable to services furnished to hospital outpatients. Information from the reports required under sections 413.65(b)(3) and (c) is needed to make these determinations. In addition, section 1866(b)(2) of the Act authorizes hospitals and other providers to impose deductible and coinsurance charges for facility services, but does not allow such charges by facilities or organizations which are not provider-based. Implementation of this provision requires that CMS have information from the required reports, so it can determine which facilities are provider-based. *Form Number:* CMS–R–240 (OMB control number: 0938–0798); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 750; *Total Annual Responses:* 13,649,150; *Total Annual Hours:* 680,920 (For policy questions regarding this collection contact Emily Lipkin at 410–786–3633.)

4. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Medicare EDI Enrollment Form and EDI Registration; *Use:* The Congress, recognizing the need to simplify the administration of health care transactions, enacted the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, on August 21, 1996. Title II, Subtitle F of this legislation directs the Secretary of the Department of Health and Human Services to develop unique standards for specified electronic transactions and code sets for those transactions. The purpose of this Subtitle is to improve the Medicare and Medicaid programs in particular and the efficiency and

effectiveness of the health care industry in general through the establishment of standards and requirements to facilitate the electronic transmission of certain health information. This Subtitle also requires that the Secretary adopt standards for financial and administrative transactions, and data elements for those transactions to enable health information to be exchanged electronically. The Standards for Electronic Transactions final rule, 45 CFR part 162 subpart K 162.1101 through subpart R 162.1802, (hereinafter referred to as ''Transactions Rule'') published August 17, 2000 adopted standards for health care transactions and code sets. Subsequent to the Transactions Rule, CMS–0003–P and CMS–0005–P proposed modifications to the adopted standards essential to permit initial implementation of the standards throughout the entire healthcare industry.

Currently, Medicare contractors have a process in place to enroll providers for electronic billing and other EDI transactions. In support of the HIPAA Transactions Rule, the purpose of this Paperwork Reduction Act (PRA) request is to establish a common form that is sufficient to address all HIPAA transactions. *Form Number:* CMS–10164 (OMB control number: 0938–0983); *Frequency:* Hourly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 193,268; *Number of Responses:* 193,268; *Total Annual Hours:* 64,423. (For policy questions regarding this collection, contact Matt Klischer at 410–786–7488.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Hospitals and Health Care Complex Cost Report; *Use:* Under the authority of sections 1815(a) and 1833(e) of the Act, CMS requires that providers of services participating in the Medicare program submit information to determine costs for health care services rendered to Medicare beneficiaries. CMS requires that providers follow reasonable cost principles under 1861(v)(1)(A) of the Act when completing the Medicare cost report. Under the regulations at 42 CFR 413.20 and 413.24, CMS defines adequate cost data and requires cost reports from providers on an annual basis. The Form CMS–2552–10 cost report is needed to determine a provider's reasonable cost incurred in furnishing medical services to Medicare beneficiaries and calculate the hospital settlement amounts. These providers, paid under the inpatient prospective payment system (IPPS) and the outpatient prospective payment system (OPPS), may receive reimbursement outside of the PPS for hospital-specific adjustments such as Medicare reimbursable bad debts, disproportionate share, uncompensated care, direct and indirect medical education costs, and organ acquisition costs. The Form CMS–2552–10 cost report is also used for rate setting and payment refinement activities, including developing a hospital market basket. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the hospital cost report data to calculate Medicare margins, to formulate recommendations to Congress regarding the IPPS and OPPS, and to conduct additional analysis of the IPPS and OPPS. *Form Number:* CMS–2552–10 (OMB control number: 0938–0050); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other For-profit and Not-for-profit institutions), State, Local and Tribal Governments, Federal Government; *Number of Respondents:* 6,088; *Total Annual Responses:* 6,088; *Total Annual Hours:* 4,097,224. (For policy questions regarding this collection contact Gail Duncan at 410–786–7278.)

6. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities (PRTFs) for Individuals Under Age 21 and Supporting Regulations; *Use:* Psychiatric residential treatment facilities are required to report deaths, serious injuries and attempted suicides to the State Medicaid Agency and the Protection and Advocacy Organization. They are also required to provide residents the restraint and seclusion policy in writing, and to document in the residents' records all activities involving the use of restraint and seclusion. *Form Number:* CMS–R–306 (OMB control number: 0938–0833); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 390; *Total Annual Responses:* 1,466,823; *Total Annual Hours:* 449,609. (For policy questions regarding this collection contact Kirsten Jensen at 410–786–8146.)

7. *Type of Information Collection Request:* New collection (request for a new OMB control number); *Title of Information Collection:* 21st Century Cures Act Section 12002 IMD Study; *Use:* The Act requires that HHS conduct a study of the effects of the 2016 Medicaid Managed Care final rule's provisions that clarified policy on coverage of IMD services in lieu of other covered services. The survey is needed to help answer the 5 mandated study questions. The collected data will be used by CMS develop a Report to Congress as required by the Act. *Form Number:* CMS–10684 (OMB Control Number: 0938–TBD); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 43; *Number of Responses:* 43; *Total Annual Hours:* 86. (For questions regarding this collection contact Laura Snyder at (410) 786–3198.)

8. *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.)

9. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetic, Orthotics, and Supplies (DMEPOS); *Use:* The CMS has had longstanding concerns about the improper payments related to DMEPOS items. The Department of Health and Human Services' Office of the Inspector General and the U.S. Government Accountability Office have published multiple reports indicating questionable billing practices by suppliers, inappropriate Medicare payments, and questionable utilization of DMEPOS items. The fiscal year (FY) 2017 Medicare FFS program improper payment rate for the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) was 44.6%, accounting for over $3.7 billion in projected improper payments. The CMS has implemented several initiatives in recent years to address these issues, such as the DMEPOS Competitive Bidding Program, as well as heightened screening of suppliers, as authorized by the Affordable Care Act. In addition to those actions, CMS is continuing the use of prior authorization in fee for service Medicare. Prior authorization is a process through which a request for provisional affirmation of coverage is submitted for review before an item is rendered to a Medicare patient and before a claim is submitted for payment. Prior authorization helps make sure that applicable Medicare coverage, payment, and coding rules are met before item(s) are rendered. Prior to furnishing the item to the beneficiary and prior to submitting the claim for processing, a requester must submit a prior authorization request that includes evidence that the item complies with all applicable Medicare coverage, coding, and payment rules. Consistent with § 414.234(d), such evidence must include the order, relevant information from the beneficiary's medical record, and relevant supplier-produced documentation. After receipt of all applicable required Medicare documentation, CMS or one of its review contractors will conduct a medical review and communicate a decision that provisionally affirms or non-affirms the request. A provisional affirmative decision is a preliminary finding that a future claim submitted to Medicare for the DMEPOS item likely meets Medicare's coverage, coding, and payment requirements. Suppliers who receive a non-affirmative decision have unlimited resubmission opportunities. *Form Number:* CMS–10524 (OMB control number: 0938–1293); Frequency: Occasionally; Affected Public: Private Sector (Business or other for-profits, Not-for-Profit Institutions); Number of Respondents: 321,551; Total Annual Responses: 321,551; Total Annual Hours: 160,775.68 (For policy questions regarding this collection contact Yuliya Cook at (410) 786–0157.)

10. *Type of Information Collection Request:* Reinstatement; *Title of Information Collection:* Medicare Coverage of Items and Services in FDA Investigational Device Exemption Clinical Studies—Revision of Medicare Coverage; *Use* . Section 1862(m) of the Social Security Act (and regulations at 42 CFR Subpart B (sections 405.201–405.215) allows for payment of the routine costs of care furnished to Medicare beneficiaries in a Category A investigational device exemption (IDE) study and authorizes the Secretary to establish criteria to ensure that Category A IDE trials conform to appropriate scientific and ethical standards. Medicare does not cover the Category A device itself because Category A (Experimental) devices do not satisfy the statutory requirement that Medicare pay for devices determined to be reasonable and necessary. Medicare may cover Category B (Non-experimental) devices, and associated routine costs of care, if they are considered reasonable and necessary and if all other applicable Medicare coverage requirements are met.

Under the current centralized review process, interested parties (such as study sponsors) that wish to seek Medicare coverage related to Category A or B IDE studies have a centralized point of contact for submission, review and determination of Medicare coverage IDE study requests. In order for CMS (or its designated entity) to determine if the Medicare coverage criteria are met, as described in our regulations, CMS (or its designated entity) must review documents submitted by interested parties or study sponsors. Such information submitted will be a FDA IDE approval letter, IDE study protocol, IRB approval letter, National Clinical Trials (NCT) number, and Supporting materials as needed. *Form Number:* CMS–10511 (OMB control number: 0938–1250); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours:* 200. (For policy questions regarding this collection contact Cheryl Gilbreath at 410–786–5919.)

Dated: January 28, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–00411 Filed 1–30–19; 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: State Self-Assessment Review and Report.

OMB No.: 0970–0223.

Description: Section 454(15)(A) of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Act of 1996, requires each State to annually assess the performance of its child support enforcement program in accordance with standards specified by the Secretary of the Department of Health and Human Services, and to provide a report of the findings to the Secretary. This information is required to determine if States are complying with Federal child support mandates and providing the best services possible. The report is also intended to be used as management tool to help States evaluate their programs and assess performance.

Respondents: State Child Support Enforcement Agencies or Department/Agency/Bureau responsible for Child Support Enforcement in each State.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Self-assessment report	54	1	4	216

Estimated Total Annual Burden Hours: 216.

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.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00405 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0114]

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Child Care and Development Fund Plan for States/Territories for FFY 2019–2021 (ACF–118).

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for States and Territories is required from each CCDF Lead agency in accordance with Section 658E of the Child Care and Development Block Grant Act of 1990 (CCDBG Act), as amended, CCDBG Act of 2014 (Pub. L. 113–186), and 42 U.S.C 9858. The Plan, submitted on the ACF–118, is required triennially, and remains in effect for three years. The Plan provides ACF and the public with a description of, and assurance about the States' and Territories' child care programs. These Plans are the applications for CCDF funds. The ACF–118 is currently approved through December 31, 2018.

This Notice is required by the Paperwork Reduction Act (PRA). The PRA requires Federal agencies to request approval from the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs (OIRA) for any information collection that will ask the same question of ten or more persons. The process includes publication of an initial **Federal Register** Notice (FRN) allowing 60 days for public comments on the initial plan for information collection, the publication of a second FRN allowing 30 days for public comment on the final proposed information collection, and review and approval by the OMB Office of Information and Regulatory Affairs.

Due to unanticipated events, the Office of Child Care (OCC) could not comply with the regular PRA clearance process that calls for two **Federal Register** Notices (60- and 30-day) and comment periods by the July 1, 2018 CCDF Plan submission deadline. The OCC requested and was granted clearance for this FY 2019–2021 CCDF Plan Preprint from OMB under emergency clearance procedure for six months with an expiration date of December 31, 2018. Because the CCDF Plan covers three year effective period, we are initiating the full clearance process to obtain OMB approval to use this document for the entire three year period.

The Office of Child Care (OCC) gave thoughtful consideration to the comments received from the 30-day emergency Public Notice. OCC revised the document to reflect some of the changes made to minimize the administrative burden of the collection of information on respondents. The revised document contains revisions to improve the accuracy and clarity of policy questions, definitions, and guidance in order to improve the quality of information that is collected.

Respondents: State and Territory CCDF Lead Agencies (56).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118	56	0.33	200	3,696

Estimated Total Annual Burden Hours: 3,696.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00381 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–81–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request; Correction

Title: U.S. Repatriation Program Forms.

OMB No.: 0970–0474.

Summary: The Administration for Children and Families erroneously published a document in the **Federal Register** of December 19, 2018 (83 FR 65167). This current publication supersedes the referenced previous publication. This Notice provides the opportunity for public comment on the described U.S. Repatriation Program Forms.

Description: The United States (U.S.) Repatriation Program was established by Title XI, Section 1113 of the Social Security Act (Assistance for U.S. Citizens Returned from Foreign Countries) to provide temporary assistance to U.S. citizens and their dependents who have been identified by the Department of State (DOS) as having returned, or been brought from a foreign country to the U.S. because of destitution, illness, war, threat of war, or a similar crisis, and are without available resources immediately accessible to meet their needs. The Secretary of the Department of Health and Human Services (HHS) was provided with the authority to administer this Program. On or about 1994, this authority was delegated by the HHS Secretary to the Administration for Children and Families (ACF) and later re-delegated by ACF to the Office of Human Services Emergency Preparedness and Response (OHSEPR). The Repatriation Program works with States, Federal agencies, and non-governmental organizations to provide eligible individuals with temporary assistance for up to 90 days. This assistance is in the form of a loan and must be repaid to the Federal Government.

The Program was later expanded in response to legislation enacted by Congress to address the particular needs of persons with mental illness (24 U.S.C. Sections 321 through 329). Further refinements occurred in response to Executive Order (E.O.) 11490 (as amended), which gave HHS the responsibility to ''develop plans and procedures for assistance at ports of entry to U.S. personnel evacuated from overseas areas, their onward movement to final destination, and follow-up assistance after arrival at final destination.'' In addition, under E.O. 12656 (53 CFR 47491), ''Assignment of emergency preparedness responsibilities,'' HHS was given the lead responsibility to develop plans and procedures to provide assistance to U.S. citizens and others evacuated from overseas.

Overall, the Program manages two major activities, Emergency and Non-emergency Repatriation. The ongoing routine arrivals of individual repatriates and the repatriation of individuals with mental illness constitute the Program Non-emergency activities. Emergency activities are comprised of group repatriations (evacuations of 50–500 individuals) and emergency repatriations (evacuations of 500 or more individuals). Operationally, these activities involve different kinds of preparation, resources, and implementation. However, the core Program policies and administrative procedures are essentially the same. The Program provides services through agreements with local repatriation service providers (*e.g.* States, federal agencies, non-governmental agencies, etc.). For the purpose of this Program, local repatriation service provider (local provider) has the same definition of ''agency'' as defined under 45 CFR 212.1 (i). The list of Repatriation Forms is as follows:

1. *Emergency and Group Processing Form (RR–01):* During an emergency repatriation, individuals complete portions of this form to apply for repatriation assistance. Then State personnel use the form to perform a preliminary eligibility assessment. Authorized ACF staff make final eligibility decisions.

2. *Emergency and Group Repatriation Financial Form (RR–02):* States and supporting agencies complete this form if they have entered into an agreement with OHSEPR allowing for reimbursement of reasonable and allowable costs during emergency repatriation activities.

3. *Repatriation Loan Waiver and Deferral Request Form (RR–03):* Eligible repatriates, authorized legal custodians, or authorized state staff complete this form to request a waiver or deferral of a repatriation loan.

4. *Non-Emergency Monthly Financial Statement Form (RR–04):* States and other authorized OHSEPR agencies use this form to request reimbursement of reasonable and allowable costs for the provision of temporary assistance during non-emergency activities.

5. *Privacy and Repayment Agreement Form (RR–05):* This form authorizes HHS to release personally identifiable information to appropriate agencies for the purpose of providing services. In addition, through this form, eligible repatriates or authorized legal custodians agree to accept services under the Program's terms and conditions, which include repaying the federal government for services received.

6. Refusal of Temporary Assistance Form (RR–06): Eligible repatriates or authorized legal custodians use this form to confirm and record their decision to relinquish repatriation services.

7. *Temporary Assistance and Extension Request Form (RR–07):* To request an extension of assistance beyond the 90-day eligibility period, eligible repatriates, authorized legal custodians, or authorized state staff submit this form to OHSEPR or its designated grantee generally 14 days prior to the expiration of the repatriate's eligibility period.

8. *Emergency and Group Repatriation State Request for Federal Support Form (RR–08):* During emergency repatriation activities, OHSEPR-activated states must use this form to request support and/or assistance from the federal government, including but not limited to augmentation of personnel, funding, and reimbursement.

Respondents: Repatriation Program local repatriation service providers and individuals repatriated or evacuated by DOS from overseas. These respondents are authorized under Title XI, Section 1113 of the Social Security Act (42 U.S.C. 1313), Executive Order 12656 (amended by E.O. 13074, February 9, 1998; E.O. 13228, October 8, 2001; E.O. 13286, February 28, 2003), and 45 CFR 211 & 212.

ANNUAL BURDEN ESTIMATES

Form	Number of respondents	Frequency of the response	Average burden hours per response	Total annual burden hours
Emergency and Group Processing Form	25,000	1	0.30	7,500
Privacy and Repayment Agreement Form	25,000	1	0.05	1,250
Refusal of Temporary Assistance Form	15	1	0.05	0.75
Emergency and Group Repatriation Financial Form	15	1	0.30	4.5
Non-Emergency Monthly Financial Statement Form	52	12	0.30	187
Repatriation Loan Waiver and Deferral Request Form	800	1	0.30	240
Emergency and Group Repatriation State Request for Federal Support Form	20	1	0.30	6
Temporary Assistance and Extension Request Form	50	1	0.30	15

Estimated Total Annual Burden Hours: 9,203.25.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C St. SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00509 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Building Evidence on Employment Strategies for Low-Income Families (BEES) (New Collection)

AGENCY: Office of Planning, Research, and Evaluation; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is proposing a data collection activity as part of the Building Evidence on Employment Strategies for Low-Income Families (BEES). The purpose of BEES is to evaluate the effectiveness of a broad range of innovative programs designed to boost employment and earnings among low-income Americans. Within this general focus area, ACF has a particular interest in programs that serve adults whose employment prospects have been affected by substance use disorder (SUD), opioid use disorder (OUD), mental health conditions, and justice involvement. ACF expects that a subset of programs to be evaluated will serve these specific target populations. To meet these objectives, this study will include impact and implementation evaluations for up to 21 sites, as well as descriptive work focused on other sites that have a focus on clients with opioid use and other substance abuse disorders. When possible, a randomized control trial research design will be used for the impact evaluations. The purpose of the current submission is to request approval for data collection needed for the BEES study.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The BEES impact studies call for multiple data collection points with study participants. Data will be collected from study participants through the following methods: (1) Baseline information form completed by study participants at study entry, (2) study participants will also be asked to periodically update their contact information, (3) interview administered to participants in non-behavioral health sites 6 months after study entry to learn about program participation, (4) interview administered to participants in behavioral health sites approximately 12 months after study entry to learn about employment and related outcomes, (5) individual interviews with up to 6 participants in each site and their case managers. These data will be used to assess the extent to which the programs being evaluated improve participants' employment, earnings, income, behavioral health, and well-being. They will also be used to assess the extent to which individuals in the study receive employment services.

The research team will also collect data from researchers, policy experts, state and local administrators, and program staff to identify potential sites. These data will be collected primarily by telephonic staff interviews using discussion guides.

For the implementation studies, the research team will collect data from program staff to assess program implementation. Information will be collected in consistent ways across sites and, to the extent feasible, will use the same measures and data collection procedures. Data collected from program staff during the study will include the following: (1) Site visit data including staff interviews, (2) interviews with case managers as part of the participant case studies mentioned above, and (3) program staff surveys. These data will be used to measure program implementation and fidelity, factors affecting service delivery, program staff characteristics, and staff time allocation. All impact study sites will include an implementation study. In addition, there will be several descriptive studies of other sites that use some of the implementation instruments to better understand programs serving clients with opioid use and other substance abuse disorders.

Future information collection requests and related **Federal Register** Notices will describe future data collection efforts for this project.

Respondents: Participants enrolled in the study, program staff, national policy experts and researchers, and state and local administrators.

ANNUAL BURDEN ESTIMATES

[3 year clearance]

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Baseline information form for participants	18600	6200	1	0.25	1550
Contact update request form	5520	1840	1	0.1	184
6-month follow-up participant interview	1680	560	1	0.25	140
12-month follow-up participant interview	3840	1280	1	0.5	640
Participant case study interview guide	126	42	1	1.5	63
Discussion guide for national policy experts and researchers	10	3	1	1	3
Discussion guide for state and local administrators	55	18	1	2	36
Discussion guide for program staff at potential sites	72	24	1	2.75	66
Program managers, staff, and partner interview guide	270	90	1.5	1.5	203
Program staff case study interview guide	126	42	1	1	42
Program staff survey	420	140	1	0.5	70

Estimated Total Annual Burden Hours: 2,997.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 413 of the Social Security Act, as amended by the FY 2017 Consolidated Appropriations Act, 2017 (Pub. L. 115–31).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00414 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Sexual Risk Avoidance Education Program (SRAE) Performance Analysis Study (PAS) (New Collection)

AGENCY: Office of Planning, Research and Evaluation; Administration for Children and Families; HHS.

ACTION: Request for Public Comment.

SUMMARY: The Office of Planning, Research, and Evaluation and the Family and Youth Services Bureau in the Administration for Children and Families (ACF) propose data collection activity as part of the Sexual Risk Avoidance Education (SRAE) Program Performance Analysis Study (PAS). The goal of the study is to collect, analyze and report on performance measures data for the Sexual Risk Avoidance Education Program.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The purpose of the SRAE program is to educate youth on ''how to voluntarily refrain from non-marital sexual activity and prevent other youth risk behaviors.'' Data will be used to determine if the SRAE grantees are meeting performance benchmarks related to their program's mission and priorities.

Respondents: Departmental (DSRAE), State (SSRAE), and Competitive (CSRAE) grantees, their subawardees, and program participants.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondents	Average burden hours per response	Annual burden hours
(1) Participant Entry Survey					
DSRAE participants	138,415	46,138	1	.13	5,998
SSRAE participants	947,183	315,728	1	.13	41,045
CSRAE participants	24,870	8,290	1	.13	1,078
(2) Participant Exit Survey					
DSRAE participants	138,415	46,138	1	.25	11,535
SSRAE participants	947,183	315,728	1	.25	78,932
CSRAE participants	24,870	8,290	1	.25	2,073
(3) Performance reporting data entry form—Grantees					
DSRAE grantees	90	30	2	16	960
SSRAE grantees	117	39	2	16	1,248
CSRAE grantees	54	18	2	16	288
(4) Performance reporting data entry form—Sub awardees					
DSRAE subawardees	2,076	692	2	13	17,992
SSRAE subawardees	2,700	900	2	13	23,400
CSRAE subawardees	312	104	2	13	2,704

Estimated Total Annual Burden Hours: 187,253.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C 1310.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00413 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–83–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Annual Report/ACF 204 (State MOE)—1 collection.

OMB No.: 0970–0248.

Description: The Administration for Children and Families (ACF) is requesting a three-year extension of the ACF–204 (Annual MOE Report). The report is used to collect descriptive program characteristics information on the programs operated by States and Territories in association with their Temporary Assistance for Needy Families (TANF) programs. All State and Territory expenditures claimed toward States and Territories MOE requirements must be appropriate, *i.e.,* meet all applicable MOE requirements. The Annual MOE Report provides the ability to learn about and to monitor the nature of State and Territory expenditures used to meet States and Territories MOE requirements, and it is an important source of information about the different ways that States and Territories are using their resources to help families attain and maintain self-sufficiency. In addition, the report is used to obtain State and Territory program characteristics for ACFs annual report to Congress, and the report serves as a useful resource to use in Congressional hearings about how TANF programs are evolving, in assessing State the Territory MOE expenditures, and in assessing the need for legislative changes.

Respondents: The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–204	54	1	118	6,372

Estimated Total Annual Burden Hours: 6,372.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing

to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00388 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–82–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0482]

Proposed Information Collection Activity; Comment Request

Proposed Projects: Application for Grants to States

Title: State Access and Visitation Grant Application.

Description: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) created the ''Grants to States for Access and Visitation'' program (AV grant program). Funding for the program began in FY 1997 with a capped, annual entitlement of $10 million. The statutory goal of the program is to provide funds to states that will enable them to provide services for the purpose of increasing noncustodial parent (NCP) access to and visitation with their children. State governors decide which state entity will be responsible for implementing the AV grant program in addition to determining who will be served, what services will be provided, and whether the services will be statewide or in local jurisdictions. The statute specifies certain activities which may be funded including: Voluntary and mandatory mediation, counseling, education, the development of parenting plans, supervised visitation, and the development of guidelines for visitation and alternative custody arrangements. Even though OCSE manages this program, the funding for the AV grant is separate from funding for federal and state administration of the Child Support program.

Section 469B(e)(3) of the Social Security Act (Pub. L. 104–193) requires that each state receiving an AV grant award shall monitor, evaluate and report on such programs in accordance with regulations. Additionally, the Catalog of Federal Domestic Assistance, states that there is an application requirement for Grants to States for Access and Visitation Programs (93.597). The application process assists OCSE in complying with this requirement and emphasizes program efficiency, coordination of services, building support for parenting time services, and ensuring the safety of parents and children.

Specifically, the application require states to submit a detailed program plan, indicating how they anticipate spending their funds within the program statue and regulations. The applications cover three fiscal years and any changes made to the plan during the three year period will require a notification of change to OCSE.

OCSE will review the applications to ensure that planned services meet the requirements laid out in Section 469B(e)(3) of the Social Security Act (Pub. L. 104–193). This review will include monitoring of program compliance and the safe delivery of services. In addition to monitoring, the report will also assist in OCSE's ability to provide technical assistance to states that request assistance.

Respondents: Recipients of the Access & Visitation Grant (54 states and territories).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per responses	Total burden hours
Fillable Word document	54	1	10	540

Estimated Total Annual Burden Hours: 540.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00403 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No. 0970–0198]

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: FY 2020–2022 Child Care and Development Fund Plan for Tribes (ACF–118A)

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for Tribes is required from each CCDF Lead agency in accordance with Section 658E of the Child Care and Development Block Grant Act of 1990 (CCDBG Act), as amended, CCDBG Act of 2014 (Pub. L. 113–186), and 42 U.S.C 9858. The Plan, submitted on the ACF–118A, is required triennially, and remains in effect for three years. The Plan provides ACF and the public with a description of, and assurance about the States' and Territories' child care programs. These Plans are the applications for CCDF funds.

This Notice is required by the Paperwork Reduction Act (PRA). The PRA requires Federal agencies to request approval from the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs (OIRA) for any information collection that will ask the same question of ten or more persons. The process includes publication of an initial **Federal Register** Notice (FRN) allowing 60 days for public comments on the initial plan for information collection, the publication of a second FRN allowing 30 days for public comment on the final proposed information collection, and review and approval by the OMB Office of Information and Regulatory Affairs.

The Office of Child Care (OCC) has revised the FY 2020–2022 CCDF Plan Preprint for Tribes to align with the CCDF Final Rule published on September 30, 2016. In making the revisions, consideration was given to minimize the burden of the collection of information on respondents. The revised document contains revisions to improve the accuracy and clarity of policy questions, definitions, and guidance in order to improve the quality of information that is collected.

Consistent with the statute and regulations, ACF requests revisions of the ACF–118A to align with the requirements of the CCDF Final Rule.

Respondents: Tribal CCDF Lead Agencies (260).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF—118A Part I (for all tribes)	260	0.33	120	15,420
ACF—118A Part II (for medium and large allocation tribes only)	106	0.33	144	5,037

Estimated Total Annual Burden Hours: 20,457.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–00386 Filed 1–30–19; 8:45 am]

BILLING CODE 4184–81–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0049]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting harmful and potentially harmful constituents (HPHCs).

DATES: Submit either electronic or written comments on the collection of information by April 1, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 1, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 1, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2012–D–0049 for ''Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act

OMB Control Number 0910–0732—Extension

The Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) (Tobacco Control Act), enacted on June 22, 2009, amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) and provided FDA with the authority to regulate the manufacture, marketing, and distribution of cigarettes, cigarette tobacco, roll-your-own (RYO) tobacco, and smokeless tobacco products to protect the public health and to reduce tobacco use by minors. The Tobacco Control Act also gave FDA the authority to issue regulations deeming other products that meet the statutory definition of a tobacco product to be subject to chapter IX of the FD&C Act (section 901(b) of the FD&C Act (21 U.S.C. 387a(b))).

In accordance with that authority, on May 10, 2016, FDA issued a final rule deeming all products that meet the statutory definition of tobacco product, except accessories of newly deemed tobacco products, to be subject to FDA's tobacco product authority (final deeming rule) (81 FR 28974).

Chapter IX of the FD&C Act now applies to newly regulated products, including sections 904(a)(3) and (c)(1) (21 U.S.C. 387d(a)(3) and (c)(1)). Section 904(a)(3) of the FD&C Act requires the submission of an initial report from each tobacco product manufacturer or importer, or agents thereof, listing all constituents, including smoke constituents as applicable, identified as HPHC to health by FDA. Reports must be by brand and by quantity in each brand and subbrand. We note that for cigarettes, smokeless tobacco, cigarette

filler, and RYO tobacco products, this initial reporting was completed in 2012.

Section 904(c)(1) of the FD&C Act provides that manufacturers of tobacco products not on the market as of June 22, 2009, must also provide the information reportable under section 904(a)(3) at least 90 days prior to introducing the product into interstate commerce.[1]

FDA has taken several steps to identify HPHCs to be reported under section 904 of the FD&C Act, including issuing a guidance discussing FDA's current thinking on the meaning of the term ''harmful and potentially harmful constituent'' in the context of implementing the HPHC list requirement under section 904(e) of the FD&C Act (76 FR 5387, January 31, 2011, revised guidance issued August 2016). The guidance is available on the internet at *https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm241339.htm.* The current established list of HPHCs also is available on the internet at *https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM297828.pdf* (77 FR 20034, April 3, 2012).

The purpose of the information collection is to collect statutorily mandated information regarding HPHCs in tobacco products and tobacco smoke, by brand and by quantity in each brand and subbrand.

To facilitate the submission of HPHC information, Forms FDA 3787a, 3787b, and 3787c for cigarettes, smokeless tobacco products, and RYO tobacco products, respectively, in both paper and electronic formats, are available. Additionally, FDA is developing forms to facilitate the submission of HPHC information for the newly deemed tobacco products. We intend to model these forms on the current HPHC reporting forms (*i.e.,* Forms FDA 3787a, 3787b, and 3787c). A proposed information collection for newly deemed products will be published in a separate **Federal Register** notice, and we will solicit comments on that collection at that time.

Manufacturers or importers, or their agents, may submit HPHC information either electronically or in paper format. The FDA eSubmitter tool provides electronic forms to streamline the data entry and submission process for reporting HPHCs for cigarettes, smokeless tobacco products, and RYO tobacco products. Users of eSubmitter may populate an FDA-created Excel file and import data into eSubmitter. Whether respondents decide to submit reports electronically or on paper, each form provides instructions for completing and submitting HPHC information to FDA. The forms contain fields for company information, product information, and HPHC information.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reporting for Section 904(c)(1) Products					
1. Reporting of Manufacturer/Importer Company and Product Information by Completing Submission Forms					
Cigarette	67	0.67	45	1.82	82
RYO	46	0.033	1.5	0.43	1
Smokeless	42	0.54	23	0.63	14
Total					97
2. Testing of HPHC Quantities in Products					
Cigarette Filler and RYO	46	0.033	1.5	9.42	14
Smokeless	42	0.54	23	12.06	277
Total					291
3. Testing of HPHC Quantities in Mainstream Smoke					
Cigarette: ISO Regimen	67	0.67	45	23.64	1,064
Cigarette: Health Canada Regimen	67	0.67	45	23.64	1,064
Total					2,128
Total Section 904(c)(1) Reporting Burden Hours					2,516

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden for this collection of information is estimated to be 2,516 hours. The burden estimate for this collection of information includes the time it will take to read the instructions, test the products, and prepare the HPHC report.

In arriving at this burden estimate, FDA estimated the number of tobacco products to be reported under the requirements of section 904(c)(1) of the FD&C Act annually to FDA.

Section 1 of table 1 estimates that 155 respondents (67 cigarette manufacturers or importers, 46 RYO tobacco manufacturers, 42 smokeless manufacturers) will submit 97 HPHC reports annually. This section addresses the time required for manufacturers and importers (or their agents), who must report their product information to FDA

[1] Note that section 904(c)(1) testing and reporting requirements are separate from the requirements that must be satisfied before a new tobacco product (sections 905 and 910 of the FD&C Act (21 U.S.C. 387e and 387j)), or modified risk tobacco product (section 911 of the FD&C Act (21 U.S.C. 387k)) may be marketed.

under section 904(c)(1) of the FD&C Act at least 90 days prior to delivery for introduction into interstate commerce for all new products, to report their company information to FDA through the use of the electronic portal or paper forms.

The company information reported includes: Company name; mailing address; telephone and Fax numbers; FDA Establishment Identifier number; Data Universal Numbering System number; and point of contact name, mailing address, and telephone and Fax numbers, as applicable. It also addresses the time required for manufacturers and importers to report their product information by entering certain testing information into the electronic or paper forms.

The product information includes: Brand and subbrand name; unique product identification number; type of product identification number; product category and subcategory; and mean weight and standard deviation of tobacco in product.

We estimate that the burden to enter both the company and product information is no more than 1.82 hours for cigarettes, 0.43 hours for RYO, and 0.63 hours for smokeless tobacco products regardless of whether the paper or electronic Form FDA series 3787 is used. The time to report per tobacco product types varies because the number of HPHCs varies by tobacco product category.

The estimated number of responses under section 904(c)(1) is based on FDA's experience and the past 3 years' actual responses to FDA under this provision of the FD&C Act for statutorily regulated products.

Section 2 of table 1 estimates that 88 respondents (46 cigarette filler and RYO tobacco manufacturers and importers and 42 smokeless manufacturers) will test quantities of HPHCs in an average of 24.5 products annually. This section addresses the time required for manufacturers and importers (or their agents) who must test HPHC quantities in products. The burden estimates include the burden to test the tobacco products, draft testing reports, and submit the report to FDA. The total expected burden for this section is 291 hours.

Section 3 of table 1 addresses the time required for manufacturers and importers to test quantities for HPHCs in cigarette smoke. The burden estimates include: The burden to test the number of replicate measurements; test date range; manufacture date range; extraction method; separation method; detection method; and mean quantity and standard deviation of HPHCs and includes the burden to test the tobacco products, draft testing reports, and submit the report to FDA. The annual burden reflects our estimate of the time it takes to test the tobacco products (*i.e.,* carry out laboratory work). The burden estimate assumes that manufacturers and importers report HPHC quantities in cigarette mainstream smoke according to the two smoking regimens. The total expected burden is 2,128 hours for this section.

The total estimated burden for this information collection is 2,516 hours and 139 responses.

Our estimated burden for the information collection reflects an overall decrease of 2,125 hours and a corresponding decrease of 142 responses. We attribute this decrease to updated information on the number of submissions we received over the last few years.

Dated: January 11, 2019.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2019–00448 Filed 1–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0070]

Microbiology Devices Panel Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public advisory committee meeting of the Microbiology Devices Panel. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on March 8, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: Hilton Washington, DC North/Gaithersburg, Salons A, B, C and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's phone number is 301–977–8900; additional information available online at: *https://www3.hilton.com/en/hotels/maryland/hilton-washington-dc-north-gaithersburg-GAIGHHF/index.html.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G642, Silver Spring, MD 20993–0002, *Aden.Asefa@fda.hhs.gov,* 301–796–0400, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On March 8, 2019, the committee will discuss and make recommendations regarding new or alternative approaches to the clinical study design and evaluation of devices detecting Human Papillomavirus (HPV) nucleic acid. These approaches will take into consideration scientific data generated since the approval of the first High Risk (HR) HPV screening device in 2003 as well as the effects of HPV vaccination on clinical studies of devices for HPV detection. Topics to be addressed at the meeting include clinical study design and comparator methods. Additionally, the committee will discuss potential changes to the HR HPV device indications for use considering continually evolving cervical cancer screening guidelines. The committee will provide expert feedback regarding the benefits and risks from the adoption of changes in each of the above topics and make recommendations for future HR HPV device evaluation strategies that are both scientifically rigorous and least burdensome.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/*

AdvisoryCommittees/Calendar/default.htm. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 1, 2019. Oral presentations from the public will be scheduled on March 8, 2019, between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 21, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 22, 2019.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 15, 2019.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2019–00464 Filed 1–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0218]

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pulmonary-Allergy Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on March 27, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–0218. The docket will close on March 26, 2019. Submit either electronic or written comments on this public meeting by March 26, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 26, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 26, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before March 13, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–0218 for ''Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two

copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cindy Chee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *PADAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss new drug application (NDA) 208646, submitted by AllerQuest, LLC, for a skin-test kit (proposed trade name PRE–PEN Plus) that combines the approved product PRE–PEN (benzylpenicilloyl polylysine for injection) with penicillin G potassium, penicilloic acid, penilloic acid, and amoxicillin sodium, for the proposed indication to detect IgE sensitization to penicillin antigens and reliably rule out the potential for immediate life-threatening penicillin allergic reactions with a high degree of probability in patients with history of possible IgE-dependent penicillin allergy. The discussion will include study design considerations, the contribution of each of the components, and whether the submitted data provide substantial evidence of efficacy.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions made to the Docket (see **ADDRESSES**) on or before March 13, 2019, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 5, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 6, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Cindy Chee (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 23, 2019.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2019–00492 Filed 1–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4615]

Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format.'' This draft guidance is intended to assist holders of new drug applications (NDAs) and abbreviated new drug applications (ANDAs) approved under the Federal Food, Drug, and Cosmetic Act (FD&C Act) with their submission of required marketing status notifications.

DATES: Submit either electronic or written comments on the draft guidance by April 1, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit either electronic or written

comments concerning the collection of information proposed in the draft guidance by April 1, 2019.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–4615 for ''Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Giaquinto Friedman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1670, Silver Spring, MD 20993–0002, 240–402–7930, *elizabeth.giaquinto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format.'' This draft guidance is intended to assist holders of NDAs and ANDAs approved under the FD&C Act with their submission of required marketing status notifications. The FDA Reauthorization Act of 2017 (Pub. L. 115–52) (FDARA) added section 506I to the FD&C Act (21 U.S.C. 356i), which imposes additional reporting requirements on NDA and ANDA holders regarding the marketing status of approved drug products. This draft guidance identifies the required content for these marketing status notifications and the format by which these notifications should be submitted to the Agency.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520) (the PRA), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing the proposed collection of information set forth in this notice of availability that would result from the submission of these FDARA notifications.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance

of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Marketing Status Notifications Under Section 506I of the Federal Food, Drug, and Cosmetic Act; Content and Format; Draft Guidance for Industry

Description: The draft guidance describes the FDARA requirement that NDA and ANDA holders must notify FDA of the marketing status of drug products approved under an NDA and ANDA. Applicants must provide the following information:

Notification of Withdrawal from Sale: NDA and ANDA holders must provide a written notification to FDA 180 days prior to withdrawing an approved drug from sale. Pursuant to section 506I(a) of the FD&C Act, the notification of a withdrawal from sale must include the following information:

1. The National Drug Code(s) under which the drug is listed (21 CFR part 207).
2. The established name of the drug.
3. The proprietary name of the drug, if applicable.
4. The NDA or ANDA number.
5. The strength of the drug.
6. The date on which the drug is expected to no longer be available for sale.
7. The reason for the withdrawal.

The applicant should submit the notification of a withdrawal from sale in a letter to the applicable NDA or ANDA file through the electronic submissions gateway, as described in the draft guidance. The notification should prominently identify the submission as an ''ADMINISTRATIVE CHANGE/NOT AVAILABLE FOR SALE.''

Notification of Drug Not Available For Sale: NDA and ANDA holders must provide a written notification to FDA within 180 days of the date of approval of a drug if that drug will not be available for sale within 180 days of the date of approval. Pursuant to section 506I(b) of the FD&C Act, the notification that a drug is not available for sale within 180 days of the date of approval of the drug must include the following information:

1. The established name of the drug.
2. The proprietary name of the drug, if applicable.
3. The NDA or ANDA number.
4. The strength of the drug.
5. The date on which the drug will be available for sale, if known.
6. The reason for not marketing the drug after approval.

The applicant should submit the notification that a drug will not be available for sale in a letter to the applicable NDA or ANDA file through the electronic gateway. The notification should prominently identify the submission as an ''ADMINISTRATIVE CHANGE/NOT AVAILABLE FOR SALE.'' Once marketing begins, FDA recommends that the NDA or ANDA holder notify FDA of the commenced marketing in a letter to the applicable NDA or ANDA file through the electronic gateway to ensure that appropriate changes can be made in the Agency's publication, *Approved Drug Products With Therapeutic Equivalence Evaluations* (the Orange Book). The notification should prominently identify the submission as an ''ADMINISTRATIVE CHANGE/NOTIFICATION OF COMMERCIAL MARKETING.''

One-Time Report on Marketing Status: NDA and ANDA holders were required to provide a written notification to FDA by February 14, 2018, stating whether the NDA and ANDA holder's drug(s) in the active section of the Orange Book are available for sale or if one or more of the NDA or ANDA holder's drugs in the active section have been withdrawn from sale or have never been available for sale. This report was required to indicate whether:

1. All of the NDA or ANDA holder's drugs in the active section of the Orange Book were available for sale or
2. One or more of the NDA or ANDA holder's drugs in the active section of the Orange Book had been withdrawn from sale or had never been available for sale.

We estimate that a total of approximately 523 applicants (''number of respondents'' in table 1) will submit annually approximately 523 *Notifications of Withdrawal from Sale* as described in the draft guidance (''total annual responses'' in table 1). We estimate that preparing and submitting each notification will take approximately 30 minutes (''hours per response'' in table 1). We base our estimates for the number of applicants and the number of notifications on information from our database of NDA and ANDA submissions. Our estimate of the time applicants would need to prepare and submit each notification is based on our familiarity with receiving these types of notifications.

We estimate that a total of approximately 30 applicants (''number of respondents'' in table 1) will submit annually approximately 30 *Notifications of Drug Not Available for Sale* as described in the draft guidance (''total annual responses'' in table 1). We estimate that preparing and submitting each notification will take approximately 30 minutes (''hours per response'' in table 1). We base our estimates for the number of applicants and the number of notifications on information from our database of NDA and ANDA submissions. Our estimate of the time applicants would need to prepare and submit each notification is based on our familiarity with receiving these types of notifications. Once marketing begins, we estimate that these applicants will notify FDA of commenced marketing by submitting *Notifications of Commercial Marketing* as described in the draft guidance. We estimate that preparing and submitting each notification that commercial marketing has commenced will take approximately 15 minutes (''hours per response'' in table 1).

A total of approximately 925 applicants (''number of respondents'' in table 2) submitted approximately 10,319 One-Time Reports on Marketing Status as described in the draft guidance (''total annual responses'' in table 2). We estimate that preparing and submitting each notification as described in the draft guidance took approximately 30 minutes (''hours per response'' in table 2). We base our estimates of the number of applicants and the number of notifications on the actual number of one-time reports on marketing status submitted prior to February 14, 2018. Our estimate of the time applicants needed to prepare and submit each notification is based on our familiarity with receiving these types of notifications.

Under the PRA, FDA has already estimated and OMB has approved under control number 0910–0001 the collection of information contained in the submission of NDA and ANDA marketing status reports (*e.g.,* notification of withdrawal from sale; notification of drug not available for sale) and related amendments, supplements, and other notifications required under subpart B and subpart C of part 314 in Title 21 of the Code of Federal Regulations (see, *e.g.,* 21 CFR 314.81(b)(2)(ii)(*a*) and (b)(3)(iv)).

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Notification of Withdrawal from Sale	523	1	523	0.5 (30 minutes)	261.5
Notification of Drug Not Available for Sale, and Notification that Commercial Marketing Has Commenced	30	1	30	0.75 (45 minutes)	22.5
Total					284

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ONE-TIME REPORTING BURDEN [1]

	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
One-Time Report on Marketing Status	925	11.16	10,319	0.5 (30 minutes)	5,159.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: January 17, 2019.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2019–00458 Filed 1–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0176]

Neurological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Neurological Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on March 21, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: Hilton Washington, DC North/Gaithersburg, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's phone number is 301–977–8900; additional information available online at: *https://www3.hilton.com/en/hotels/maryland/hilton-washington-dc-north-gaithersburg-GAIGHHF/index.html?SEO_id=GMB-HI-GAIGHHF%20.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G642, Silver Spring, MD 20993–0002, *Aden.Asefa@fda.hhs.gov,* 301–796–0400, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On March 21, 2019, the committee will discuss and make recommendations on clinical information related to the de novo request for the NeuroAD Therapy System by Neuronix, Ltd. The NeuroAD Therapy System is intended to provide concurrent neurostimulation and cognitive training for the treatment of mild to moderate Alzheimer's dementia.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 1, 2019. Oral presentations from the public will be scheduled on March 21, 2019, between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 21, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 22, 2019.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 16, 2019.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2019–00483 Filed 1–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Healthy Start Evaluation and Quality Improvement, OMB No. 0915–0338—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than April 1, 2019.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Healthy Start Evaluation and Quality Improvement. OMB No. 0915–0338—Revision.

Abstract: The National Healthy Start Program, funded through HRSA's Maternal and Child Health Bureau (MCHB), has the goal of reducing disparities in infant mortality and adverse perinatal outcomes. The program began as a demonstration project with 15 grantees in 1991 and has expanded since then to 100 grantees across 37 states and Washington, DC. Healthy Start grantees operate in communities with rates of infant mortality at least 1.5 times the U.S. national average and high rates for other adverse perinatal outcomes. These communities are often low-income and geographically, racially, ethnically, and linguistically diverse areas. Healthy Start offers services during the perinatal period (before, during, after pregnancy) and the program works with women and infants through the first 18 months after birth. The Healthy Start program pursues four goals: (1) Improve women's health, (2) improve family health and wellness, (3) promote systems change, and (4) assure impact and effectiveness. Over the past few years, MCHB has sought to implement a uniform set of data elements for monitoring and conducting an evaluation to assess grantees' progress towards these program goals. Under the current OMB approval, the data collection instruments for this evaluation include the following: The National Healthy Start Program Survey; Community Action Network Survey; Healthy Start Site Visit Protocol; Healthy Start Participant Focus Group Protocol; and six (6) client-level screening tools: (1) Demographic Intake Form, (2) Pregnancy Status/History, (3) Preconception, (4) Prenatal, (5) Postpartum, and (6) Interconception/Parenting.

In this proposed revision, MCHB plans to retain the client-level tools as well as the National Healthy Start Program Survey, and eliminate the Community Action Network Survey, Healthy Start Site Visit Protocol and Healthy Start Participant Focus Group Protocol instruments. For the 6 client-level tools, MCHB plans to consolidate them into three (3) tools: (1) Background, (2) Prenatal, and (3) Parenting Information. The purpose of these changes is to reduce time burden on grantees, interviewers, and participants by eliminating items that are duplicated across the forms. In addition to consolidating questions across tools, many individual items have been eliminated or reworded in order to focus the evaluation more clearly on program performance measures. This will shorten the revised instruments, focus them more clearly on a single purpose, and increase consideration of participant sensitivities to certain types of questions. The reduced time burden should increase overall completion of the individual client-level forms by participants, and reduce the number of skipped items within each form.

Need and Proposed Use of the Information: The purpose of the revised data collection instruments will be to assess grantee and client-level progress towards meeting Healthy Start program performance measures. The data will be used to conduct ongoing performance monitoring of the program, thus meeting program needs for accountability, programmatic decision-making, and ongoing quality assurance.

Likely Respondents: For the General Background, Prenatal, and Parenting Information client-level forms, respondents include pregnant women and women of reproductive age who are served by the Healthy Start program. For the National Healthy Start Program Survey, respondents include project directors and staff for each of the grantees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
General Background Form	*45,000	1	45,000	.30	13,500
Prenatal	*30,000	1	30,000	.10	3,000
Parenting	*30,000	1	30,000	.25	7,500
National Healthy Start Program Web Survey	100	1	100	2.00	200
Total	105,100		105,100		24,200

*All participants (45,000) complete the General Background form, and a subset of these same individuals (30,000) also complete the Prenatal or Parenting forms for total of 105,100 responses.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality and utility of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–00393 Filed 1–30–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Title: Health Resources and Service Administration Uniform Data System, OMB No. 0915–0193—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than March 4, 2019.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Health Resources and Service Administration Uniform Data System, OMB No. 0915–0193—Revision.

Abstract: HRSA utilizes the Uniform Data System (UDS) for annual reporting by certain HRSA award recipients, including Health Center Program awardees (those funded under section 330 of the Public Health Service (PHS) Act), Health Center Program look-alikes, and Nurse Education, Practice, Quality and Retention (NEPQR) Program awardees (specifically those funded under the practice priority areas of section 831(b) of the PHS Act).

Need and Proposed Use of the Information: HRSA collects UDS data annually to ensure compliance with legislative and regulatory requirements, improve clinical and operational performance, and report overall program accomplishments. These data help to identify trends over time, enabling HRSA to establish or expand targeted programs and to identify effective services and interventions that will improve the health of medically underserved communities. HRSA compares UDS data with other national, health-related data sets to compare HRSA award recipient patient populations and the overall U.S. population.

The UDS data collection will be revised in the following ways.

- *Quality of Care Measures Alignment with the Centers for Medicare and Medicaid Services (CMS) electronic-specified clinical quality measures (eCQMs):* Revise UDS clinical quality measures in accordance with the corresponding CMS eCQMs updates for 2019 calendar year reporting.
- *Substance Use Disorder and Mental Health Services:* Collect information regarding substance use disorder and mental health services by provider specialty to better assess which providers are delivering substance use disorder and behavioral health services; support investments in these priority areas; and better describe comprehensive, integrated models of care.
- *Health Information Technology (health IT):* Streamline and clarify health IT questions regarding utilization of health IT to include information sharing, patient engagement, quality improvement, and program evaluation and research.
- *Statin Therapy for the Prevention and Treatment of Cardiovascular Disease:* Replace the current non specified Coronary Artery Disease measure with an e-specified measure that aligns with the Centers for Disease Control and Prevention and the CMS Million Hearts® clinical quality measures relating to statin therapy.
- *Telemedicine and Virtual Visits:* Collect information on services provided via telemedicine and virtual visits by provider in order to capture the changing healthcare delivery landscape.
- *Tenure for Health Center Staff:* Retire Table 5A related to the tenure for staff.
- *Workforce:* Collect workforce related information, including workforce satisfaction and health professional training.

Likely Respondents: The respondents will likely include Health Center Program awardees, Health Center Program look-alikes, and NEPQR Program awardees funded under the practice priority areas of section 831(b) of the PHS Act.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information

requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Universal Report	1,469	1	1,469	223	327,587
Grant Report	574	1	574	30	17,220
Total	2,043		2,043		344,807

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–00392 Filed 1–30–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; National Health Service Corps Scholar/Students to Service Travel Worksheet, OMB No. 0915–0278—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than March 4, 2019.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: National Health Service Corps Scholar/Students to Service Travel Worksheet, OMB No: 0915–0278—Extension.

Abstract: Clinicians participating in the HRSA National Health Service Corps (NHSC) Scholarship Program and the Students to Service (S2S) Loan Repayment Program use the online Travel Request Worksheet to receive travel funds from the Federal Government to visit eligible NHSC sites to which they may be assigned in accordance with the Public Health Service Act (PHSA), section 331(c)(1).

The travel approval process is initiated when a NHSC scholar or S2S participant notifies the NHSC of an impending interview at one or more NHSC-approved practice sites. The Travel Request Worksheet is also used to initiate the relocation process after a NHSC scholar or S2S participant has successfully been matched to an approved practice site in accordance with the PHSA, section 331(c)(3). Upon receipt of the Travel Request Worksheet, the NHSC will review and approve or disapprove the request and promptly notify the scholar or S2S participant, and the NHSC logistics contractor, regarding travel arrangements and authorization of the funding for the site visit or relocation.

Need and Proposed Use of the Information: This information will facilitate NHSC scholars and S2S clinicians' receipt of federal travel funds that are used to visit high-need NHSC sites. The Travel Request Worksheet is also used to initiate the relocation process after a NHSC scholar or S2S participant has successfully been matched to an approved practice site.

Likely Respondents: Clinicians participating in the NHSC Scholarship Program and the S2S Loan Repayment Program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Travel Request Worksheet	300	2	600	.0667	40.02

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Total	300		600		40.02

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–00394 Filed 1–30–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Commission on Childhood Vaccines

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Advisory Commission on Childhood Vaccines (ACCV) has scheduled public meetings for the 2019 calendar year (CY). Information about ACCV, agendas, and materials for these meetings can be found on the ACCV website at: *http://www.hrsa.gov/advisorycommittees/childhoodvaccines/index.html.*

DATES: ACCV meetings will begin at 10:00 a.m. ET on March 7–8, 2019; June 6–7, 2019; September 5–6, 2019; and December 5–6, 2019.

ADDRESSES: Meetings may be held in-person, by teleconference, and/or Adobe Connect webinar. In-person ACCV meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. Instructions for joining the meetings either in person or remotely will be posted on the ACCV website 30 business days before the date of the meeting. For meeting information updates, go to the ACCV website meeting page: *https://www.hrsa.gov/advisory-committees/vaccines/meetings.html.*

FOR FURTHER INFORMATION CONTACT: Annie Herzog, Program Analyst, Division of Injury Compensation Programs (DICP), HRSA, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857; 301–443–6593; or *aherzog@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The ACCV was established by section 2119 of the Public Health Service Act (42 U.S.C. 300aa–19), as enacted by Public Law (Pub. L.) 99–660, and as subsequently amended, and advises the Secretary of HHS (Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP). For CY 2019 meetings, agenda items may include, but are not limited to, updates from DICP, the Department of Justice, the National Vaccine Program Office, the Immunization Safety Office, National Institute of Allergy and Infectious Diseases, and the Center for Biologics Evaluation and Research. Since priorities dictate meeting times, be advised that locations and agenda items are subject to change. Refer to the ACCV website listed above for all current and updated information concerning the CY 2019 ACCV meetings, including draft agendas and meeting materials that will be posted before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACCV should be sent to Annie Herzog using the contact information above at least five business days before the meeting date(s).

Individuals who need special assistance or another reasonable accommodation should notify Annie Herzog at the address and phone number listed above at least 10 business days before the meeting(s) they wish to attend. Since all in person meetings will occur in a federal government building, attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at least 10 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–00439 Filed 1–30–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Bureau of Health Workforce Performance Data Collection, OMB No. 0915–0061—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than March 4, 2019.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Bureau of Health Workforce Performance Data Collection, OMB No. 0915–0061—Revision.

Abstract: Over 40 Bureau of Health Workforce (BHW) programs award grants to health professions schools and training programs across the United States to develop, expand, and enhance training, and to strengthen the distribution of the health workforce. These programs are governed by the Public Health Service Act (42 U.S.C. 201 *et seq.*), specifically Titles III, VII, and VIII. Performance information about

these health professions programs is collected in the HRSA Performance Report for Grants and Cooperative Agreements. Specific performance measurement requirements for each program may be found on the HRSA website at *https://bhw.hrsa.gov/grants/reportonyourgrant.* Data collection activities consist of two reports—an annual progress report and annual performance report—that are submitted by awardees to comply with statutory and programmatic requirements for performance measurement and evaluation (including specific Title III, VII and VIII requirements), as well as the Government Performance and Results Act of 1993 (GPRA) and the GPRA Modernization Act of 2010 requirements. The performance measures were last revised in 2016 to ensure they addressed programmatic changes, met evolving program management needs, and responded to emerging workforce concerns. As these changes successfully enabled BHW to demonstrate accurate outputs and outcomes associated with the health professions programs, BHW will continue with its current performance management strategy and make only minor changes that reflect new HHS and HRSA priorities with the addition of a question asking awardees how many trainees received training in telehealth, substance use treatment, and/or medication-assisted treatment.

Need and Proposed Use of the Information: The purpose of the proposed data collection is to continue analysis and reporting of awardee training activities and educational programs, identify intended practice locations and report outcomes of funded initiatives. Data collected from these grant programs will also provide a description of the program activities of approximately 1,500 reporting grantees to inform policymakers on the barriers, opportunities, and outcomes involved in health care workforce development. The proposed measures focus on five key outcomes: (1) Increasing the workforce supply of well-educated practitioners in needed professions; (2) increasing the number of practitioners that practice in underserved and rural areas; (3) enhancing the quality of education; (4) increasing the recruitment, training, and placement of under-represented groups in the health workforce; and (5) supporting educational infrastructure to increase the capacity to train more health professionals in high demand areas.

Likely Respondents: Respondents are awardees of BHW health professions grant programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Direct Financial Support Program	500	1	500	3.1	1,550
Infrastructure Program	100	1	100	4.5	450
Multipurpose or Hybrid Program	900	1	900	4.3	3,870
Total	1,500		1,500		5,870

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–00402 Filed 1–30–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Ebola Virus Disease Therapeutics—Amendment

ACTION: Notice of Amendment to the February 27, 2015, Declaration under the Public Readiness and Emergency Preparedness Act for Ebola Virus Disease Therapeutics, as amended.

SUMMARY: The Secretary is amending the February 27, 2015, Declaration issued pursuant to the Public Health Service Act, amended December 9, 2015 and December 2, 2016, to update the term ''Ebola Virus Disease'' to ''Ebola disease'' (EBOD) throughout the declaration and to clarify the definition of EBOD. The amendment also expands the Covered Countermeasures beyond the single therapeutic listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the United States (U.S.) Federal Government, consistent with the terms of the Declaration, and is republishing the Declaration in its entirety as amended.

DATES: The Amended Declaration is applicable beginning December 1, 2018.

FOR FURTHER INFORMATION CONTACT: Robert P. Kadlec, MD, MTM&H, MS, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; Telephone 202–205–2882.

SUPPLEMENTARY INFORMATION: The Secretary is amending the February 27, 2015, Declaration issued pursuant to the Public Health Service Act, amended December 9, 2015 (80 FR 76536) and December 2, 2016, (81 FR 89476) to extend the effective time period through December 31, 2023; to update the term ''Ebola Virus Disease'' to ''Ebola disease'' (EBOD) throughout the declaration and to clarify the definition of EBOD; and to expand the Covered Countermeasures beyond the single therapeutic listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the United States (U.S.) Federal Government, consistent with the terms of the Declaration, and is republishing the Declaration in its entirety as amended.

The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes the Secretary of Health and Human Services to issue a Declaration to

provide liability immunity to certain individuals and entities (Covered Persons) against any claim of loss caused by, arising out of, relating to, or resulting from the administration or use of medical countermeasures (Covered Countermeasures), except for claims that meet the PREP Act's definition of willful misconduct. The Secretary may, through publication in the **Federal Register**, amend any portion of a Declaration. Using this authority, the Secretary is amending the Declaration that provides liability immunity to Covered Persons for activities related to the

Covered Countermeasures, EBOD therapeutics as listed in Section VI of the Declaration to extend the effective time period through December 31, 2023; to update the term used to identify the disease and clarify the definition of ''Ebola disease''; and to expand the Covered Countermeasures beyond the single therapeutic listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the U.S. Federal Government, consistent with the terms of this Declaration.

The PREP Act was enacted on December 30, 2005, as Public Law 109–148, Division C, Section 2. It amended the Public Health Service (PHS) Act, adding section 319F–3, which addresses liability immunity, and section 319F–4, which creates a compensation program. These sections are codified in the U.S. Code as 42 U.S.C. 247d–6d and 42 U.S.C. 247d–6e, respectively.

The Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA), Public Law 113–5, was enacted on March 13, 2013. Among other things, PAHPRA added sections 564A and 564B to the Federal Food, Drug, and Cosmetic (FD&C) Act to provide authorities for the emergency use of approved products in emergencies and products held for emergency use.

PAHPRA accordingly amended the definitions of ''Covered Countermeasures'' and ''qualified pandemic and epidemic products'' in section 319F–3 of the Public Health Service Act (PREP Act provisions), so that products made available under these new FD&C Act authorities could be covered under PREP Act Declarations. PAHPRA also extended the definition of qualified pandemic and epidemic products that may be covered under a PREP Act Declaration to include products or technologies intended to enhance the use or effect of a drug, biological product, or device used against the pandemic or epidemic or against adverse events from these products.

Ebola disease is a severe and often fatal illness in humans caused by several highly virulent viruses that are members of the family *Filoviridae.* Disease in people has been observed due to four viruses classified in a filoviral genus currently called *Ebolavirus*—Bundibugyo virus, Ebola virus, Sudan virus, and Taï Forest virus. With an average EBOD case fatality rate of around 42 percent, ebolaviruses pose a high risk to public health and national security.

From 2013 to 2016, Western Africa experienced the largest EBOD outbreak since the first two ebolaviruses (Ebola virus and Sudan virus) were discovered in 1976, and the unprecedented size of the outbreak complicated global health response. The outbreak affected populations in multiple Western African countries and travelers from Western Africa to the U.S. and other countries. The World Health Organization (WHO) declared the EBOD outbreak as a Public Health Emergency of International Concern under the framework of the International Health Regulations (2005). In March 2016, WHO determined that the EBOD outbreak no longer constituted a Public Health Emergency of International Concern but emphasized the crucial need for continued support to prevent, detect, and respond rapidly to any new EBOD outbreak in Western Africa. During the 2013 to 2016 outbreak widespread transmission was limited to Western African countries; however, ebolaviruses present a real threat to national security, because the U.S. experienced travel-associated cases of EBOD diagnosed within U.S. borders and transmission to health care workers within U.S. borders. The recurrent but unpredictable and variable nature of EBOD outbreaks and the transmission profile make ebolaviruses threats to the public health security of the American people, requiring vigilance and a continuing need for development of medical countermeasures.

Ebola disease is an ongoing public health risk, as the Democratic Republic of the Congo (COD) continues to experience EBOD outbreaks and there is a risk of extension to surrounding countries. Days after announcing the end of the outbreak of EBOD from April to July of 2018 in COD's Équateur Province, the COD Ministry of Health declared a new EBOD outbreak in Nord-Kivu Province on August 1, 2018. The Ministry of Health, WHO and U.S. Government partners are responding to this incident as new cases occur across the densely populated province. As demonstrated by the 2013–2016 EBOD outbreak, that resulted in disease in several Americans including transmission within the U.S., the risk to the U.S. population from EBOD outbreaks in Africa presents a national health security issue. Thus, there is a continuing need for development of therapeutics against EBOD.

Unless otherwise noted, all statutory citations below are to the U.S. Code.

To be consistent with the most current World Health Organization International Classification of Diseases, the Secretary is amending the declaration throughout to use the term EBOD to refer to the disease, health condition or threat to health that constitutes or may constitute a public health emergency. This change in terminology is not intended to have any substantive effect on coverage under the amended Declaration.

Section I. Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

Before issuing a Declaration under the PREP Act, the Secretary is required to determine that a disease or other health condition or threat to health constitutes a public health emergency or that there is a credible risk that the disease, condition, or threat may in the future constitute such an emergency. This determination is separate and apart from a Declaration issued by the Secretary under section 319 of the PHS Act that a disease or disorder presents a public health emergency or that a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists, or other Declarations or determinations made under other authorities of the Secretary. Accordingly, in Section I, the Secretary determines that there is a credible risk that the spread of ebolaviruses and the resulting disease may constitute a public health emergency.

In section I, the Secretary also amends the Declaration to clarify the definition of Ebola disease, providing that for the purposes of this Declaration, Ebola disease (EBOD) is defined as the illness resulting from infection by the following viruses of the filoviral *Ebolavirus* genus:

- Bundibugyo virus
- Ebola virus
- Sudan virus
- Taï Forest virus
- ebolaviruses with undefined pathogenicity in humans

This amendment is intended to clarify that the Declaration covers EBOD and all therapeutics against viruses and variants of all viruses of the *Ebolavirus*

genus consistent with the terms of the Declaration.

Section II. Factors Considered

In deciding whether and under what circumstances to issue a Declaration with respect to a Covered Countermeasure, the Secretary must consider the desirability of encouraging the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the countermeasure. In Section II, the Secretary states that he has considered these factors.

Section III. Recommended Activities

The Secretary must recommend the activities for which the PREP Act's liability immunity is in effect. These activities may include, under conditions as the Secretary may specify, the manufacture, testing, development, distribution, administration, or use of one or more Covered Countermeasures (''Recommended Activities''). In Section III, the Secretary recommends activities for which the immunity is in effect under the conditions stated in the Declaration. The Secretary is amending the Declaration to remove the condition that Recommended Activities only include those that relate to clinical trials permitted to proceed after review by the Food and Drug Administration (FDA) that administer or use the Covered Countermeasure under an investigational new drug application (IND). This amendment continues that coverage, and expands liability immunity beyond activities related to clinical trials permitted to proceed after review by the FDA, that administer or use the Covered Countermeasure under an IND. Section VI of the Declaration retains the limitation that Covered Countermeasures are limited to those activities involving Covered Countermeasures directly supported by the U.S. Federal Government.

Section IV. Liability Immunity

The Secretary must also state that liability protections available under the PREP Act are in effect with respect to the Recommended Activities. These liability protections provide that ''[s]ubject to other provisions of [the PREP Act], a covered person shall be immune from suit and liability under federal and state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure if a Declaration . . . has been issued with respect to such countermeasure.'' In Section IV, the Secretary states that liability protections are in effect with respect to the Recommended Activities.

Section V. Covered Persons

The PREP Act's liability immunity applies to ''Covered Persons'' with respect to administration or use of a Covered Countermeasure. The term ''Covered Persons'' has a specific meaning and is defined in the PREP Act to include manufacturers, distributors, program planners, and qualified persons, and their officials, agents, and employees, and the U.S. The PREP Act further defines the terms ''manufacturer,'' ''distributor,'' ''program planner,'' and ''qualified person'' as described below.

A manufacturer includes a contractor or subcontractor of a manufacturer; a supplier or licenser of any product, intellectual property, service, research tool or component or other article used in the design, development, clinical testing, investigation or manufacturing of a Covered Countermeasure; and any or all of the parents, subsidiaries, affiliates, successors, and assigns of a manufacturer.

A distributor means a person or entity engaged in the distribution of drug, biologics, or devices, including but not limited to: Manufacturers; repackers; common carriers; contract carriers; air carriers; own-label distributors; private-label distributors; jobbers; brokers; warehouses and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies.

A program planner means a state or local government, including an Indian tribe; a person employed by the state or local government; or other person who supervises or administers a program with respect to the administration, dispensing, distribution, provision, or use of a Covered Countermeasure, including a person who establishes requirements, provides policy guidance, or supplies technical or scientific advice or assistance or provides a facility to administer or use a Covered Countermeasure in accordance with the Secretary's Declaration. Under this definition, a private-sector employer or community group or other ''person'' can be a program planner when it carries out the described activities.

A qualified person means a licensed health professional or other individual authorized to prescribe, administer, or dispense Covered Countermeasures under the law of the state in which the countermeasure was prescribed, administered, or dispensed; or a person within a category of persons identified as qualified in the Secretary's Declaration. Under this definition, the Secretary can describe in the Declaration other qualified persons, such as volunteers, who are Covered Persons. Section V describes other qualified persons covered by this Declaration.

The PREP Act also defines the word ''person'' as used in the Act: A person includes an individual, partnership, corporation, association, entity, or public or private corporation, including a federal, state, or local government agency or department. Section V describes Covered Persons under the Declaration, including Qualified Persons.

The Secretary is amending the Declaration to include the following as qualified persons: (a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of an emergency; (b) any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with section 564 of the FD&C Act; and (c) any person authorized to prescribe, administer, or dispense Covered Countermeasures in accordance with Section 564A of the FD&C Act. In addition, the Secretary is amending the declaration to remove the following category of qualified persons: Any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity to carry out clinical trials permitted to proceed after FDA review that administer or use the Covered Countermeasure under an IND and that are directly supported by the U.S. These changes are intended to expand qualified persons to those who may administer Covered Countermeasures directly supported by the U.S. Federal Government in an emergency response, or under an Emergency Use Authorization issued by the FDA or other emergency authority of the FDA, and to any individuals carrying out activities under clinical trials within the scope of the statutory definitions provided in this section that involve countermeasures directly supported by the U.S.

Section VI. Covered Countermeasures

As noted above, section III describes the Secretary's Recommended Activities

for which liability immunity is in effect. Section VI identifies the countermeasures for which the Secretary has recommended such activities. The PREP Act states that a Covered Countermeasure must be: A ''qualified pandemic or epidemic product,'' or a ''security countermeasure,'' as described immediately below; or a drug, biological product or device authorized for emergency use in accordance with sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product means a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that is: (i) Manufactured, used, designed, developed, modified, licensed or procured to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic or limit the harm such a pandemic or epidemic might otherwise cause; (ii) manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by such a drug, biological product, or device; (iii) or a product or technology intended to enhance the use or effect of such a drug, biological product, or device.

A security countermeasure is a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that: (i)(a) The Secretary determines to be a priority to diagnose, mitigate, prevent, or treat harm from any biological, chemical, radiological, or nuclear agent identified as a material threat by the Secretary of Homeland Security, or (b) to diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent; and (ii) is determined by the Secretary of Health and Human Services to be a necessary countermeasure to protect public health.

To be a Covered Countermeasure, qualified pandemic or epidemic products or security countermeasures also must be approved or cleared under the FD&C Act; licensed under the PHS Act; or authorized for emergency use under sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product also may be a Covered Countermeasure when it is subject to an exemption (that is, it is permitted to be used under an Investigational Drug Application or an Investigational Device Exemption) under the FD&C Act and is the object of research for possible use for diagnosis, mitigation, prevention, treatment, or cure, or to limit harm of a pandemic or epidemic or serious or life-threatening condition caused by such a drug or device. A security countermeasure also may be a Covered Countermeasure if it may reasonably be determined to qualify for approval or licensing within 10 years after the Department's determination that procurement of the countermeasure is appropriate.

Section VI lists the EBOD therapeutics that are Covered Countermeasures. The Secretary is expanding the types of Covered Countermeasures covered under this Declaration to include classes or categories of therapeutics for mitigation or treatment of EBOD as defined in section I of this Declaration, including all components and constituent materials of these therapeutics, and all devices and their constituent components used in the administration of these therapeutics.

This change is intended to expand the types of EBOD therapeutics that are included as Covered Countermeasures consistent with the terms of this Declaration, including the limitations stated in the Section VII of this Declaration. The Declaration continues coverage for EBOD therapeutics previously covered under this declaration, ZMapp® monoclonal antibody therapeutic, and extends coverage to encompass all categories of EBOD therapeutics.

Section VI also refers to the statutory definitions of Covered Countermeasures to make clear that these statutory definitions limit the scope of Covered Countermeasures. Specifically, the Declaration notes that Covered Countermeasures must be '' 'qualified pandemic or epidemic products', or 'security countermeasures', or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the PHS Act.''

Section VII. Limitations on Distribution

The Secretary may specify that liability immunity is in effect only to Covered Countermeasures obtained through a particular means of distribution. The Secretary is amending the Declaration to state that liability immunity is afforded to Covered Persons for Recommended Activities involving Covered Countermeasures that are directly supported by the U.S. Federal Government through past, present or future federal contracts, cooperative agreements, grants, other transactions, interagency agreements, or memoranda of understanding or other federal agreements or arrangements. The Secretary defines the term ''directly support'' to mean that the U.S. has provided some form of tangible support such as supplies, funds, products, technical assistance, or staffing.

This amendment is intended to expand liability immunity beyond the prior limitation to activities that are related to clinical trials permitted to proceed after FDA review that administer or use the Covered Countermeasure under an IND, but the amendment retains the limitation that the activities must be directly supported by the U.S. Federal Government as described and defined in this section.

Section VIII. Category of Disease, Health Condition, or Threat

The Secretary must identify, for each Covered Countermeasure, the categories of diseases, health conditions, or threats to health for which the Secretary recommends the administration or use of the countermeasure. In Section VIII, the Secretary states that the disease threat for which he recommends administration or use of the Covered Countermeasures is EBOD.

Section IX. Administration of Covered Countermeasures

The PREP Act does not explicitly define the term ''administration'' but does assign the Secretary the responsibility to provide relevant conditions in the Declaration. In Section IX, the Secretary defines ''Administration of a Covered Countermeasure'':

Administration of a Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution, and dispensing of the countermeasures to recipients; management and operation of countermeasure programs; or management and operation of locations for purpose of distributing and dispensing countermeasures.

The definition of ''administration'' extends only to physical provision of a countermeasure to a recipient, such as vaccination or handing drugs to patients, and to activities related to management and operation of programs and locations for providing countermeasures to recipients, such as decisions and actions involving security and queuing, but only insofar as those activities directly relate to the countermeasure activities. Claims for which Covered Persons are provided immunity under the Act are losses caused by, arising out of, relating to, or resulting from the administration to or

use by an individual of a Covered Countermeasure consistent with Act. Under the Secretary's definition; these liability claims are precluded if the claims allege an injury caused by physical provision of a countermeasure to a recipient, or if the claims are directly due to conditions of delivery, distribution, dispensing, or management and operation of countermeasure programs at distribution and dispensing sites.

Thus, it is the Secretary's interpretation that, when a Declaration is in effect, the Act precludes, for example, liability claims alleging negligence by a manufacturer in creating a therapeutic, or negligence by a health care provider in prescribing the wrong dose, absent willful misconduct. Likewise, the Act precludes a liability claim relating to the management and operation of a countermeasure distribution program or site, such as a slip-and-fall injury or vehicle collision by a recipient receiving a countermeasure at a retail store serving as an administration or dispensing location that alleges, for example, lax security or chaotic crowd control. However, a liability claim alleging an injury occurring at the site that was not directly related to the countermeasure activities is not covered, such as a slip-and-fall with no direct connection to the countermeasure's administration or use. In each case, whether immunity is applicable will depend on the particular facts and circumstances.

Section X. Population

The Secretary must identify, for each Covered Countermeasure specified in a Declaration, the population or populations of individuals for which liability immunity is in effect with respect to administration or use of the countermeasure. This section explains which individuals should use the countermeasure or to whom the countermeasure should be administered—in short, those who should be vaccinated or take a drug or other countermeasure. Section X provides that the population includes ''any individual who uses or who is administered a Covered Countermeasure in accordance with the Declaration.''

In addition, the PREP Act specifies that liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population and to program planners and qualified persons when the countermeasure is either used by or administered to this population or the program planner or qualified person reasonably could have believed the recipient was in this population. Section X includes these statutory conditions in the Declaration for clarity.

Section X. Geographic Area

The Secretary must identify, for each Covered Countermeasure specified in the Declaration, the geographic area or areas for which liability immunity is in effect with respect to administration or use of the countermeasure, including, as appropriate, whether the Declaration applies only to individuals physically present in the area or, in addition, applies to individuals who have a described connection to the area. Section XI provides that liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation. This could include claims related to administration or use in Africa or other locations outside the U.S. It is possible that claims may arise in regard to administration or use of the Covered Countermeasures outside the U.S. that may be resolved under U.S. law.

In addition, the PREP Act specifies that liability immunity is afforded: (1) To manufacturers and distributors without regard to whether the countermeasure is used by or administered to individuals in the geographic areas; and (2) to program planners and qualified persons when the countermeasure is either used or administered in the geographic areas or the program planner or qualified person reasonably could have believed the countermeasure was used or administered in the areas. Section XI includes these statutory conditions in the Declaration for clarity.

Section XII. Effective Time Period

The Secretary must identify for each Covered Countermeasure the period or periods during which liability immunity is in effect, designated by dates, milestones, or other description of events, including factors specified in the PREP Act. Section XII identifies the effective time period. Section XII is amended to extend the effective time period to December 31, 2023.

Section XIII. Additional Time Period of Coverage

The Secretary must specify a date after the ending date of the effective period of the Declaration that is reasonable for manufacturers to arrange for disposition of the Covered Countermeasure, including return of the product to the manufacturer, and for other Covered Persons to take appropriate actions to limit administration or use of the Covered Countermeasure. In addition, the PREP Act specifies that for Covered Countermeasures that are subject to a Declaration at the time they are obtained for the Strategic National Stockpile (SNS) under 42 U.S.C. 247d–6b(a), the effective period of the Declaration extends through the time the countermeasure is used or administered pursuant to a distribution or release from the SNS. Liability immunity under the provisions of the PREP Act and the conditions of the Declaration continues during these additional time periods. Thus, liability immunity is afforded during the ''Effective Time Period,'' described under XII of the Declaration, plus the ''Additional Time Period'' described under section XIII of the Declaration.

Section XIII provides for 12 months as the additional time period of coverage after expiration of the Declaration. Section XIII also explains the extended coverage that applies to products obtained for the SNS during the effective period of the Declaration.

Section XIV. Countermeasures Injury Compensation Program

Section 319F–4 of the PREP Act authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to eligible individuals who sustain a serious physical injury or die as a direct result of the administration or use of a Covered Countermeasure. Compensation under the CICP for an injury directly caused by a Covered Countermeasure is based on the requirements set forth in this Declaration, the administrative rules for the Program, and the statute. To show direct causation between a Covered Countermeasure and a serious physical injury, the statute requires ''compelling, reliable, valid, medical and scientific evidence.'' The administrative rules for the Program further explain the necessary requirements for eligibility under the CICP. Please note that by statute, requirements for compensation under the CICP may not always align with the requirements for liability immunity provided under the PREP Act. Section XIV, ''Countermeasures Injury Compensation Program,'' explains the types of injury and standard of evidence needed to be considered for compensation under the CICP.

Further, the administrative rules for the CICP specify that if countermeasures are administered or used outside the U.S., only otherwise eligible individuals at American embassies, military installations abroad (such as military bases, ships, and camps) or at North Atlantic Treaty Organization (NATO) installations (subject to the NATO

Status of Forces Agreement) where American servicemen and servicewomen are stationed may be considered for CICP benefits. Other individuals outside the U.S. may not be eligible for CICP benefits.

Section XV. Amendments

This is the third amendment to the February 27, 2015, Declaration (80 FR 73314). The first amendment was issued December 9, 2015 (80 FR 76536), the second amendment was issued December 2, 2016 (81 FR 89476). The Secretary may amend any portion of a Declaration through publication in the **Federal Register**.

Republished Declaration

Declaration, as Amended, Public Readiness and Emergency Preparedness Act Coverage for Ebola Disease Therapeutics

This Declaration amends and republishes the February 27, 2015 for coverage under the Public Readiness and Emergency Preparedness (PREP) Act for Ebola Disease Therapeutics, as amended December 9, 2015 and December 2, 2016. To the extent any term of the February 27, 2015 Declaration, as amended on December 9, 2015 and December 2, 2016, is inconsistent with any provision of this Republished Declaration, the terms of this Republished Declaration are controlling.

I. Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

42 U.S.C. 247d–6d(b)(1)

I have determined that there is a credible risk that the spread of ebolaviruses and the resulting disease or conditions, constituting EBOD may in the future constitute a public health emergency. For the purposes of this Declaration, EBOD is the illness resulting from infection by viruses of any of the following viruses of the *Ebolavirus* genus:

- Bundibugyo virus
- Ebola virus
- Sudan virus
- Taï Forest virus
- ebolaviruses with undefined pathogenicity in humans

II. Factors Considered

42 U.S.C. 247d–6d(b)(6)

I have considered the desirability of encouraging the design, development, clinical testing, or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the Covered Countermeasures.

III. Recommended Activities

42 U.S.C. 247d–6d(b)(1)

I recommend the manufacture, testing, development, distribution, administration, and use of the Covered Countermeasures under the conditions stated in this Declaration.

IV. Liability Immunity

42 U.S.C. 247d–6d(a), 247d–6d(b)(1)

Liability immunity as prescribed in the PREP Act and conditions stated in this Declaration is in effect for the Recommended Activities described in section III.

V. Covered Persons

42 U.S.C. 247d–6d(i)(2), (3), (4), (6), (8)(A) and (B)

Covered Persons who are afforded liability immunity under this Declaration are ''manufacturers,'' ''distributors,'' ''program planners,'' ''qualified persons,'' and their officials, agents, and employees, as those terms are defined in the PREP Act, and the U.S.

In addition, I have determined that the following additional persons are qualified persons: (a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, as described below, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of an emergency; (b) any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with section 564 of the FD&C Act; and (c) any person authorized to prescribe, administer, or dispense Covered Countermeasures in accordance with Section 564A of the FD&C Act.

i. The Authority Having Jurisdiction means the public agency or its delegate that has legal responsibility and authority for responding to an incident, based on political or geographical (*e.g.,* city, county, tribal, state, or federal boundary lines) or functional (*e.g.,* law enforcement, public health) range or sphere of authority.

ii. A Declaration of emergency means any Declaration by any authorized local, regional, state, or federal official of an emergency specific to events that indicate an immediate need to administer and use the Covered Countermeasures, with the exception of a Federal Declaration in support of an Emergency Use Authorization under section 564 of the FD&C Act unless such Declaration specifies otherwise.

VI. Covered Countermeasures

42 U.S.C. 247d–6b(c)(1)(B), 42 U.S.C. 247d–6d(i)(1) and (7)

Covered Countermeasures are the following EBOD therapeutics:

All classes or categories of therapeutics for mitigation or treatment of EBOD as defined in section I of this Declaration, including all components and constituent materials of these therapeutics, and all devices and their constituent components used in the administration of these therapeutics.

Covered Countermeasures must be ''qualified pandemic or epidemic products,'' or ''security countermeasures,'' or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the Public Health Service Act.

VII. Limitations on Distribution

42 U.S.C. 247d–6d(a)(5) and (b)(2)(E)

I have determined that liability immunity is afforded to Covered Persons only for Recommended Activities involving Covered Countermeasures that are directly supported by the U.S. Federal Government, through past, present or future federal contracts, cooperative agreements, grants, other transactions, interagency agreements, memoranda of understanding, or other federal agreements or arrangements. The term ''directly supported'' in this Declaration means that the U.S Federal Government has provided some form of tangible support such as supplies, funds, products, technical assistance, or staffing.

I have also determined that for governmental program planners only, liability immunity is afforded only to the extent such program planners obtain Covered Countermeasures through voluntary means, such as (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from state, local, or private stockpiles.

VIII. Category of Disease, Health Condition, or Threat

42 U.S.C. 247d–6d(b)(2)(A)

The category of disease, health condition, or threat for which I recommend the administration or use of the Covered Countermeasures is Ebola disease (EBOD).

IX. Administration of Covered Countermeasures

42 U.S.C. 247d–6d(a)(2)(B)

Administration of the Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution and dispensing of the countermeasures to recipients, management and operation of countermeasure programs, or management and operation of locations for purpose of distributing and dispensing countermeasures.

X. Population

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(C)

The populations of individuals include any individual who uses or is administered the Covered Countermeasures in accordance with this Declaration.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered to this population, or the program planner or qualified person reasonably could have believed the recipient was in this population.

XI. Geographic Area

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(D)

Liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered in any designated geographic area; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered in any designated geographic area, or the program planner or qualified person reasonably could have believed the recipient was in that geographic area.

XII. Effective Time Period

42 U.S.C. 247d–6d(b)(2)(B)

Liability immunity for Covered Countermeasures began on February 27, 2015 and extends through December 31, 2023.

XIII. Additional Time Period of Coverage

42 U.S.C. 247d–6d(b)(3)(B) and (C)

I have determined that an additional 12 months of liability protection is reasonable to allow for the manufacturer(s) to arrange for disposition of the Covered Countermeasure, including return of the Covered Countermeasures to the manufacturer, and for Covered Persons to take such other actions as are appropriate to limit the administration or use of the Covered Countermeasures.

Covered Countermeasures obtained for the Strategic National Stockpile (SNS) during the effective period of this Declaration are covered through the date of administration or use pursuant to a distribution or release from the SNS.

XIV. Countermeasures Injury Compensation Program

42 U.S.C 247d–6e

The PREP Act authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to certain individuals or estates of individuals who sustain a covered serious physical injury as the direct result of the administration or use of the Covered Countermeasures, and benefits to certain survivors of individuals who die as a direct result of the administration or use of the Covered Countermeasures. The causal connection between the countermeasure and the serious physical injury must be supported by compelling, reliable, valid, medical and scientific evidence in order for the individual to be considered for compensation. The CICP is administered by the Health Resources and Services Administration, within the Department of Health and Human Services. Information about the CICP is available at the toll-free number 1–855–266–2427 (toll-free) or *http://www.hrsa.gov/cicp/.*

XV. Amendments

42 U.S.C. 247d–6d(b)(4)

Any amendments to this Declaration will be published in the **Federal Register**.

Authority: 42 U.S.C. 247d–6d.

Dated: January 24, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–00261 Filed 1–30–19; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OMHA–1803–N]

Medicare Program; Administrative Law Judge Hearing Program for Medicare Claim and Entitlement Appeals; Quarterly Listing of Program Issuances—October Through December 2018

AGENCY: Office of Medicare Hearings and Appeals (OMHA), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists the OMHA Case Processing Manual (OCPM) instructions that were published from October through December 2018. This manual standardizes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations, and OMHA directives, and gives OMHA staff direction for processing appeals at the OMHA level of adjudication.

FOR FURTHER INFORMATION CONTACT: Jason Green, by telephone at (571) 777–2723, or by email at *jason.green@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Medicare Hearings and Appeals (OMHA), a staff division within the Office of the Secretary within the U.S. Department of Health and Human Services (HHS), administers the nationwide Administrative Law Judge hearing program for Medicare claim; organization, coverage, and at-risk determination; and entitlement appeals under sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D–4(h) of the Social Security Act (the Act). OMHA ensures that Medicare beneficiaries and the providers and suppliers that furnish items or services to Medicare beneficiaries, as well as Medicare Advantage organizations (MAOs), Medicaid State agencies, and applicable plans, have a fair and impartial forum to address disagreements with Medicare coverage and payment determinations made by Medicare contractors, MAOs, or Part D plan sponsors (PDPSs), and determinations related to Medicare eligibility and entitlement, Part B late enrollment penalty, and income-related

monthly adjustment amounts (IRMAA) made by the Social Security Administration (SSA).

The Medicare claim, organization determination, coverage determination, and at-risk determination appeals processes consist of four levels of administrative review, and a fifth level of review with the Federal district courts after administrative remedies under HHS regulations have been exhausted. The first two levels of review are administered by the Centers for Medicare & Medicaid Services (CMS) and conducted by Medicare contractors for claim appeals, by MAOs and an Independent Review Entity (IRE) for Part C organization determination appeals, or by PDPSs and an IRE for Part D coverage determination and at-risk determination appeals. The third level of review is administered by OMHA and conducted by Administrative Law Judges and attorney adjudicators. The fourth level of review is administered by the HHS Departmental Appeals Board (DAB) and conducted by the Medicare Appeals Council (Council). In addition, OMHA and the DAB administer the second and third levels of appeal, respectively, for Medicare eligibility, entitlement, Part B late enrollment penalty, and IRMAA reconsiderations made by SSA; a fourth level of review with the Federal district courts is available after administrative remedies within SSA and HHS have been exhausted.

Sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D–4(h) of the Act are implemented through the regulations at 42 CFR part 405 subparts I and J; part 417, subpart Q; part 422, subpart M; part 423, subparts M and U; and part 478, subpart B. As noted above, OMHA administers the nationwide Administrative Law Judge hearing program in accordance with these statutes and applicable regulations. To help ensure nationwide consistency in that effort, OMHA established a manual, the OCPM. Through the OCPM, the OMHA Chief Administrative Law Judge establishes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations, and OMHA directives. The OCPM provides direction for processing appeals at the OMHA level of adjudication for Medicare Part A and B claims; Part C organization determinations; Part D coverage determinations and at-risk determinations; and SSA eligibility and entitlement, Part B late enrollment penalty, and IRMAA determinations.

Section 1871(c) of the Act requires that the Secretary publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every three months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides the specific updates to the OCPM that have occurred in the three-month period of October through December 2018. A hyperlink to the available chapters on the OMHA website is provided below. The OMHA website contains the most current, up-to-date chapters and revisions to chapters, and will be available earlier than we publish our quarterly notice. We believe the OMHA website provides more timely access to the current OCPM chapters for those involved in the Medicare claim; organization, coverage, and at-risk determination; and entitlement appeals processes. We also believe the website offers the public a more convenient tool for real time access to current OCPM provisions. In addition, OMHA has a listserv to which the public can subscribe to receive notification of certain updates to the OMHA website, including when new or revised OCPM chapters are posted. If accessing the OMHA website proves to be difficult, the contact person listed above can provide the information.

III. How To Use the Notice

This notice lists the OCPM chapters and subjects published during the quarter covered by the notice so the reader may determine whether any are of particular interest. We expect this notice to be used in concert with future published notices. The OCPM can be accessed at *https://www.hhs.gov/about/agencies/omha/the-appeals-process/case-processing-manual/index.html.*

IV. OCPM Releases for October Through December 2018

The OCPM is used by OMHA adjudicators and staff to administer the OMHA program. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, and OMHA directives.

The following is a list and description of OCPM provisions that were revised in the three-month period of October through December 2018. This information is available on our website at *https://www.hhs.gov/about/agencies/omha/the-appeals-process/case-processing-manual/index.html.*

OCPM Chapter 17: Dismissals

Chapter 17, Dismissals. This chapter addresses the reasons an OMHA adjudicator may dismiss a request for hearing or a request for review of a CMS contractor's dismissal of a request for a reconsideration, the contents of a dismissal order and its associated notice, and the effect of a dismissal. This chapter also addresses a party's rights to appeal a dismissal and an adjudicator's authority to vacate his or her own dismissal.

OCPM Chapter 18: Requests for Information and Remands

Chapter 18, Requests for Information and Remands. When authorized by the applicable regulations, OMHA adjudicators may use requests for information and remands to obtain information that is missing from an appeal, or request that a prior adjudicating entity take an action or issue a new appeal determination. In addition, an appellant and CMS or a CMS contractor in a Part A, B, or C appeal; an enrollee and CMS, the IRE, or a PDPS in a Part D appeal; or an appellant and SSA in an appeal of an SSA reconsideration may jointly request that a case be remanded to the prior adjudicator. This chapter describes the circumstances in which an OMHA adjudicator may issue a request for information or remand, and the requirements for requesting that an OMHA adjudicator remand a case. In addition, this chapter describes the right of a party, CMS, a CMS contractor, a PDPS, or SSA to request that the OMHA Chief Administrative Law Judge or a designee review a remand and, if it was not authorized by regulation, vacate the remand order.

Dated: January 22, 2019.

Jason M. Green,

Chief Advisor, Office of Medicare Hearings and Appeals.

[FR Doc. 2019–00564 Filed 1–30–19; 8:45 am]

BILLING CODE 4150–46–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Ebola Virus Disease Vaccines—Amendment

ACTION: Notice of Amendment to the December 3, 2014, Declaration under the Public Readiness and Emergency Preparedness Act for Ebola Virus Disease Vaccines, as amended.

SUMMARY: The Secretary is amending the Declaration issued pursuant to the Public Health Service Act on December 3, 2014, as amended on December 1, 2015 and December 2, 2016, to update the term ''Ebola Virus Disease'' to

''Ebola disease'' (EBOD) throughout the declaration and to clarify the definition of EBOD. The amendment also expands the Covered Countermeasures beyond the three vaccines listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the United States (U.S.) Federal Government, consistent with the terms of the Declaration, and is republishing the Declaration in its entirety as amended.

DATES: The Amended Declaration is applicable beginning December 1, 2018.

FOR FURTHER INFORMATION CONTACT: Robert P. Kadlec, MD, MTM&H, MS, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201, Telephone 202–205–2882.

SUPPLEMENTARY INFORMATION: The Secretary is amending the Declaration issued pursuant to section 319F–3 of the Public Health Service Act on December 3, 2014 (79 FR 73314), as amended on December 1, 2015 (80 FR 76541) and December 2, 2016 (81 FR 89471), to extend the effective time period through December 31, 2023; to update the term ''Ebola Virus Disease'' to ''Ebola disease'' (EBOD) throughout the declaration and to clarify the definition of EBOD; and to expand the Covered Countermeasures beyond the three vaccines listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the United States (U.S.) Federal Government, consistent with the terms of the Declaration, and is republishing the Declaration in its entirety as amended.

The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes the Secretary of Health and Human Services to issue a Declaration to provide liability immunity to certain individuals and entities (Covered Persons) against any claim of loss caused by, arising out of, relating to, or resulting from the administration or use of medical countermeasures (Covered Countermeasures), except for claims that meet the PREP Act's definition of willful misconduct. The Secretary may, through publication in the **Federal Register**, amend any portion of a Declaration. Using this authority, the Secretary is amending the Declaration that provides liability immunity to Covered Persons for activities related to the Covered Countermeasures, EBOD vaccines listed in Section VI of the Declaration, to extend the effective time period through December 31, 2023; to update the term used to identify the disease and clarify the definition of ''Ebola disease''; and to expand the Covered Countermeasures beyond the three vaccines listed in prior declarations but limit coverage to Covered Countermeasures that are directly supported by the U.S. Federal Government consistent with the terms of this Declaration.

The PREP Act was enacted on December 30, 2005, as Public Law 109–148, Division C, Section 2. It amended the Public Health Service (PHS) Act, adding section 319F–3, which addresses liability immunity, and section 319F–4, which creates a compensation program. These sections are codified in the U.S. Code as 42 U.S.C. 247d–6d and 42 U.S.C. 247d–6e, respectively.

The Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA), Public Law 113–5, was enacted on March 13, 2013. Among other things, PAHPRA added sections 564A and 564B to the Federal Food, Drug, and Cosmetic (FD&C) Act to provide new authorities for the emergency use of approved products in emergencies and products held for emergency use. PAHPRA accordingly amended the definitions of ''Covered Countermeasures'' and ''qualified pandemic and epidemic products'' in section 319F–3 of the Public Health Service Act (PREP Act provisions), so that products made available under these new FD&C Act authorities could be covered under PREP Act Declarations. PAHPRA also extended the definition of qualified pandemic and epidemic products that may be covered under a PREP Act Declaration to include products or technologies intended to enhance the use or effect of a drug, biological product, or device used against the pandemic or epidemic or against adverse events from these products.

Ebola disease is a severe and often fatal illness in humans caused by several highly virulent viruses that are members of the family *Filoviridae.* Disease in people has been observed due to four viruses classified in a filoviral genus currently called *Ebolavirus*—Bundibugyo virus, Ebola virus, Sudan virus, and Taï Forest virus. With an average EBOD case fatality rate of around 42 percent, ebolaviruses pose a high risk to public health and national security.

From 2013 to 2016, Western Africa experienced the largest EBOD outbreak since the first two ebolaviruses (Ebola virus and Sudan virus) were discovered in 1976, and the unprecedented size of the outbreak complicated global health response. The outbreak affected populations in Western African countries and travelers from Western Africa to the U.S. and other countries. In 2014, the World Health Organization (WHO) declared the EBOD outbreak as a Public Health Emergency of International Concern under the framework of the International Health Regulations (2005). In March 2016, WHO determined that the EBOD outbreak no longer constituted a Public Health Emergency of International Concern but emphasized the crucial need for continued support to prevent, detect and respond rapidly to any new EBOD outbreak in Western Africa. During the 2013 to 2016 outbreak, widespread transmission was limited to Western African countries; however, ebolaviruses present a real threat to national security, because the U.S. experienced travel-associated cases of EBOD diagnosed within U.S. borders, and transmission to health care workers within U.S. borders. The recurrent but unpredictable and variable nature of EBOD outbreaks and the transmission profile makes ebolaviruses threats to the public health security of the American people, requiring vigilance and a continuing need for development of medical countermeasures.

Ebola disease is an ongoing public health risk, as the Democratic Republic of the Congo (COD) continues to experience EBOD outbreaks and there is a risk of extension to surrounding countries. Days after announcing the end of the outbreak of EBOD from April to July of 2018 in COD's Équateur Province, the COD Ministry of Health declared a new EBOD outbreak in Nord-Kivu Province on August 1, 2018. The Ministry of Health, WHO, and U.S. Government partners are responding to this incident as new cases occur across the densely populated province. As demonstrated by the 2013–2016 EBOD outbreak, that resulted in disease in several Americans, including transmission within the U.S., the risk to the U.S. population from EBOD outbreaks in Africa presents a national health security issue. Thus, there is a continuing need for development of vaccines against EBOD.

Unless otherwise noted, all statutory citations below are to the U.S. Code.

To be consistent with the most current World Health Organization International Classification of Diseases, the Secretary is amending the declaration throughout to use the term EBOD to refer to the disease, health condition, or threat to health that constitutes or may constitute a public health emergency. This change in terminology is not intended to have any substantive effect on coverage under the amended Declaration.

Section I. Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

Before issuing a Declaration under the PREP Act, the Secretary is required to determine that a disease or other health condition or threat to health constitutes a public health emergency or that there is a credible risk that the disease, condition, or threat may constitute such an emergency. This determination is separate and apart from a Declaration issued by the Secretary under section 319 of the PHS Act that a disease or disorder presents a public health emergency or that a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists, or other Declarations or determinations made under other authorities of the Secretary. Accordingly, in Section I, the Secretary determines that there is a credible risk that the spread of ebolaviruses and the resulting disease may constitute a public health emergency.

In section I, the Secretary also amends the Declaration to clarify the definition of Ebola disease, providing that for the purposes of this Declaration, Ebola disease (EBOD) is defined as the illness resulting from infection by the following viruses of the filoviral *Ebolavirus* genus:

- Bundibugyo virus
- Ebola virus
- Sudan virus
- Taï Forest virus
- ebolaviruses with undefined pathogenicity in humans

This amendment is intended to clarify that the Declaration covers EBOD vaccines against viruses and variants of all viruses of the *Ebolavirus* genus consistent with the terms of the Declaration.

Section II. Factors Considered

In deciding whether and under what circumstances to issue a Declaration with respect to a Covered Countermeasure, the Secretary must consider the desirability of encouraging the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the countermeasure. In Section II, the Secretary states that he has considered these factors.

Section III. Recommended Activities

The Secretary must recommend the activities for which the PREP Act's liability immunity is in effect. These activities may include, under conditions as the Secretary may specify, the manufacture, testing, development, distribution, administration, or use of one or more Covered Countermeasures (Recommended Activities). In Section III, the Secretary recommends activities for which the immunity is in effect under the conditions stated in the Declaration.

Section IV. Liability Immunity

The Secretary must also state that liability protections available under the PREP Act are in effect with respect to the Recommended Activities. These liability protections provide that, ''[s]ubject to other provisions of [the PREP Act], a covered person shall be immune from suit and liability under federal and state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure if a Declaration . . . has been issued with respect to such countermeasure.'' In Section IV, the Secretary states that liability protections are in effect with respect to the Recommended Activities.

Section V. Covered Persons

The PREP Act's liability immunity applies to ''Covered Persons'' with respect to administration or use of a Covered Countermeasure. The term ''Covered Persons'' has a specific meaning and is defined in the PREP Act to include manufacturers, distributors, program planners, and qualified persons, and their officials, agents, and employees, and the U.S. The PREP Act further defines the terms ''manufacturer,'' ''distributor,'' ''program planner,'' and ''qualified person'' as described below.

A manufacturer includes a contractor or subcontractor of a manufacturer; a supplier or licenser of any product, intellectual property, service, research tool or component or other article used in the design, development, clinical testing, investigation or manufacturing of a Covered Countermeasure; and any or all of the parents, subsidiaries, affiliates, successors, and assigns of a manufacturer.

A distributor means a person or entity engaged in the distribution of drug, biologics, or devices, including but not limited to: manufacturers; repackers; common carriers; contract carriers; air carriers; own-label distributors; private-label distributors; jobbers; brokers; warehouses and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies.

A program planner means a state or local government, including an Indian tribe; a person employed by the state or local government; or other person who supervises or administers a program with respect to the administration, dispensing, distribution, provision, or use of a Covered Countermeasure, including a person who establishes requirements, provides policy guidance, or supplies technical or scientific advice or assistance or provides a facility to administer or use a Covered Countermeasure in accordance with the Secretary's Declaration. Under this definition, a private sector employer or community group or other ''person'' can be a program planner when it carries out the described activities.

A qualified person means a licensed health professional or other individual authorized to prescribe, administer, or dispense Covered Countermeasures under the law of the state in which the countermeasure was prescribed, administered, or dispensed; or a person within a category of persons identified as qualified in the Secretary's Declaration. Under this definition, the Secretary can describe in the Declaration other qualified persons, such as volunteers, who are Covered Persons. Section V describes other qualified persons covered by this Declaration.

The PREP Act also defines the word ''person'' as used in the Act: A person includes an individual, partnership, corporation, association, entity, or public or private corporation, including a federal, state, or local government agency or department. Section V describes Covered Persons under the Declaration, including Qualified Persons.

Section VI. Covered Countermeasures

As noted above, section III describes the Secretary's Recommended Activities for which liability immunity is in effect. This section identifies the countermeasures for which the Secretary has recommended such activities. The PREP Act states that a ''Covered Countermeasure'' must be: A ''qualified pandemic or epidemic product,'' or a ''security countermeasure,'' as described immediately below; or a drug, biological product, or device authorized for emergency use in accordance with sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product means a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that is: (i) Manufactured, used, designed, developed, modified, licensed or procured to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic or limit the harm such a pandemic or

epidemic might otherwise cause; (ii) manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by such a drug, biological product, or device; (iii) or a product or technology intended to enhance the use or effect of such a drug, biological product, or device.

A security countermeasure is a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that: (i)(a) The Secretary determines to be a priority to diagnose, mitigate, prevent, or treat harm from any biological, chemical, radiological, or nuclear agent identified as a material threat by the Secretary of Homeland Security, or (b) to diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent; and (ii) is determined by the Secretary of Health and Human Services to be a necessary countermeasure to protect public health.

To be a Covered Countermeasure, qualified pandemic or epidemic products or security countermeasures also must be approved or cleared under the FD&C Act; licensed under the PHS Act; or authorized for emergency use under sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product also may be a Covered Countermeasure when it is subject to an exemption (that is, it is permitted to be used under an Investigational Drug Application or an Investigational Device Exemption) under the FD&C Act and is the object of research for possible use for diagnosis, mitigation, prevention, treatment, or cure, or to limit harm of a pandemic or epidemic or serious or life-threatening condition caused by such a drug or device. A security countermeasure also may be a Covered Countermeasure if it may reasonably be determined to qualify for approval or licensing within 10 years after the Department's determination that procurement of the countermeasure is appropriate.

Section VI lists the EBOD vaccines that are Covered Countermeasures. The Secretary is expanding the types of Covered Countermeasures covered under this Declaration to include monovalent or multivalent ebolavirus or filovirus vaccine types against any single or combinations of the pathogens resulting in EBOD as defined in Section I of this Declaration, all components and constituent materials of these vaccines, and all devices and their constituent components used in the administration of these vaccines:

(1) Inactivated virus vaccines
(2) Live-attenuated vaccines
(3) mRNA vaccines
(4) DNA vaccines
(5) Subunit vaccines
(6) Peptide and/or polysaccharide and/or conjugate vaccines
(7) Virion-like particles vaccines
(8) Nanoparticle vaccines
(9) Recombinant vaccines
(10) Viral vector-based vaccines

This change is intended to expand the types of EBOD vaccines that are included as Covered Countermeasures consistent with the terms of this declaration, including the limitations stated in Section VII of this Declaration. The Declaration continues coverage for EBOD vaccines previously afforded under this declaration: (1) ''Recombinant Replication Deficient Chimpanzee Adenovirus Type 3–Vectored Ebola Zaire Vaccine'' (ChAd3–EBO–Z); (2) ''Recombinant Vesicular Stomatitis Virus-vectored vaccine expressing EBOV–Zaire glycoprotein'' (rVSV–ZEBOV–GP), and; (3) ''Ad26.ZEBOV/MVA–BN–Filo'' (MVA–mBN226B), and extends coverage to encompass all categories of EBOD vaccines.

Section VI also refers to the statutory definitions of Covered Countermeasures to make clear that these statutory definitions limit the scope of Covered Countermeasures. Specifically, the Declaration notes that Covered Countermeasures must be '' 'qualified pandemic or epidemic products,' or 'security countermeasures,' or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the PHS Act.''

Section VII. Limitations on Distribution

The Secretary may specify that liability immunity is in effect only to Covered Countermeasures obtained through a particular means of distribution. The Secretary is amending the Declaration to state that liability immunity is afforded to Covered Persons for Recommended Activities involving Covered Countermeasures that are directly supported by the U. S. Federal Government through past, present or future federal contracts, cooperative agreements, grants, other transactions, interagency agreements, or memoranda of understanding or other federal agreements or arrangements. The Secretary specifies that the term ''directly supported'' in this Declaration means that the U. S. has provided some form of tangible support such as supplies, funds, products, technical assistance, or staffing.

The Secretary is amending the Declaration to delete the limitation to activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute, or dispense the Covered Countermeasures following a Declaration of an emergency. In accordance with the PREP Act, termination of this limitation has only future effect, and does not alter coverage provided under the Declaration prior to the effective date of this amendment. However, we do not believe that this amendment substantively alters liability protections previously afforded under the Declaration, given that the Declaration previously only covered specific EBOD vaccines that were directly supported by the U.S. Federal Government. The amendments to Sections VI and VII of this Declaration are intended to expand coverage under the Declaration to all categories of EBOD vaccines but retain the limitation to those EBOD vaccines that are directly supported by the U.S. Federal Government. We note that the Declaration still covers activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute, or dispense EBOD vaccines following a declaration of an emergency when the activities also involve Covered Countermeasures directly supported by the U.S. Federal Government. Accordingly, individuals carrying out activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute, or dispense the Covered Countermeasures following a Declaration of an emergency are still listed as qualified persons under Section V of the declaration. Section V also defines the terms ''Authority Having Jurisdiction'' and ''Declaration of an emergency.'' We have specified in the definition that Authorities having jurisdiction include federal, state, local, and tribal authorities and institutions or organizations acting on behalf of those governmental entities.

Section VIII. Category of Disease, Health Condition, or Threat

The Secretary must identify, for each Covered Countermeasure, the categories of diseases, health conditions, or threats to health for which the Secretary recommends the administration or use

of the countermeasure. In Section VIII, the Secretary states that the disease threat for which he recommends administration or use of the Covered Countermeasures is EBOD.

Section IX. Administration of Covered Countermeasures

The PREP Act does not explicitly define the term ''administration'' but does assign the Secretary the responsibility to provide relevant conditions in the Declaration. In Section IX, the Secretary defines ''Administration of a Covered Countermeasure.''

Administration of a Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution, and dispensing of the countermeasures to recipients; management and operation of countermeasure programs; or management and operation of locations for purpose of distributing and dispensing countermeasures. The definition of ''administration'' extends only to physical provision of a countermeasure to a recipient, such as vaccination or handing drugs to patients, and to activities related to management and operation of programs and locations for providing countermeasures to recipients, such as decisions and actions involving security and queuing, but only insofar as those activities directly relate to the countermeasure activities. Claims for which Covered Persons are provided immunity under the PREP Act are losses caused by, arising out of, relating to or resulting from the administration to or use by an individual of a Covered Countermeasure consistent with the terms of a Declaration issued under the PREP Act. Under the Secretary's definition, these liability claims are precluded if they allege an injury caused by physical provision of a countermeasure to a recipient, or if the claims are directly due to conditions of delivery, distribution, dispensing, or management and operation of countermeasure programs at distribution and dispensing sites.

Thus, it is the Secretary's interpretation that, when a Declaration is in effect, the PREP Act precludes, for example, liability claims alleging negligence by a manufacturer in creating a vaccine, or negligence by a health care provider in prescribing the wrong dose, absent willful misconduct. Likewise, the Act precludes a liability claim relating to the management and operation of a countermeasure distribution program or site, such as a slip-and-fall injury or vehicle collision by a recipient receiving a countermeasure at a retail store serving as an administration or dispensing location that alleges, for example, lax security or chaotic crowd control. However, a liability claim alleging an injury occurring at the site that was not directly related to the countermeasure activities is not covered, such as a slip and fall with no direct connection to the countermeasure's administration or use. In each case, whether immunity is applicable will depend on the particular facts and circumstances.

Section X. Population

The Secretary must identify, for each Covered Countermeasure specified in a Declaration, the population or populations of individuals for which liability immunity is in effect with respect to administration or use of the countermeasure. This section explains which individuals should use the countermeasure or to whom the countermeasure should be administered—in short, those who should be vaccinated or take a drug or other countermeasure. Section X provides that the population includes ''any individual who uses or who is administered a Covered Countermeasure in accordance with the Declaration.''

In addition, the PREP Act specifies that liability immunity is afforded: (1) To manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population; and (2) to program planners and qualified persons when the countermeasure is either used by or administered to this population or the program planner or qualified person reasonably could have believed the recipient was in this population. Section X includes these statutory conditions in the Declaration for clarity.

Section XI. Geographic Area

The Secretary must identify, for each Covered Countermeasure specified in the Declaration, the geographic area or areas for which liability immunity is in effect with respect to administration or use of the countermeasure, including, as appropriate, whether the Declaration applies only to individuals physically present in the area or, in addition, applies to individuals who have a described connection to the area. Section XI provides that liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation. This could include claims related to administration or use in Africa or other locations outside the U.S. It is possible that claims may arise in regard to administration or use of the Covered Countermeasures outside the U.S. that may be resolved under U.S. law.

In addition, the PREP Act specifies that liability immunity is afforded: (1) To manufacturers and distributors without regard to whether the countermeasure is used by or administered to individuals in the geographic areas; and (2) to program planners and qualified persons when the countermeasure is either used or administered in the geographic areas or the program planner or qualified person reasonably could have believed the countermeasure was used or administered in the areas. Section XI includes these statutory conditions in the Declaration for clarity.

Section XII. Effective Time Period

The Secretary must identify, for each Covered Countermeasure, the period or periods during which liability immunity is in effect, designated by dates, milestones, or other description of events, including factors specified in the PREP Act. Section XII is amended to extend the effective time period for distribution of Covered Countermeasures consistent with Section VII of this Declaration through December 31, 2023.

Section XIII. Additional Time Period of Coverage

The Secretary must specify a date after the ending date of the effective period of the Declaration that is reasonable for manufacturers to arrange for disposition of the Covered Countermeasure, including return of the product to the manufacturer, and for other Covered Persons to take appropriate actions to limit administration or use of the Covered Countermeasure. In addition, the PREP Act specifies that for Covered Countermeasures that are subject to a Declaration at the time they are obtained for the Strategic National Stockpile (SNS) under 42 U.S.C. 247d–6b(a), the effective period of the Declaration extends through the time the countermeasure is used or administered pursuant to a distribution or release from the Stockpile. Liability immunity under the provisions of the PREP Act and the conditions of the Declaration continues during these additional time periods. Thus, liability immunity is afforded during the ''Effective Time Period,'' described under XII of the Declaration, plus the ''Additional Time Period'' described under section XIII of the Declaration.

Section XIII provides for 12 months as the additional time period of coverage after expiration of the Declaration. Section XIII also explains the extended coverage that applies to any products obtained for the SNS during the effective period of the Declaration.

Section XIV. Countermeasures Injury Compensation Program

Section 319F–4 of the PREP Act authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to eligible individuals who sustain a serious physical injury or die as a direct result of the administration or use of a Covered Countermeasure. Compensation under the CICP for an injury directly caused by a Covered Countermeasure is based on the requirements set forth in this Declaration, the administrative rules for the Program, and the statute. To show direct causation between a Covered Countermeasure and a serious physical injury, the statute requires ''compelling, reliable, valid, medical and scientific evidence.'' The administrative rules for the Program further explain the necessary requirements for eligibility under the CICP. Please note that, by statute, requirements for compensation under the CICP may not align with the requirements for liability immunity provided under the PREP Act. Section XIV, ''Countermeasures Injury Compensation Program,'' explains the types of injury and standard of evidence needed to be considered for compensation under the CICP.

Further, the administrative rules for the CICP specify that if countermeasures are administered or used outside the US, only otherwise eligible individuals at American embassies, military installations abroad (such as military bases, ships, and camps) or at North Atlantic Treaty Organization (NATO) installations (subject to the NATO Status of Forces Agreement) where American servicemen and servicewomen are stationed may be considered for CICP benefits. Other individuals outside the U.S. may not be eligible for CICP benefits.

Section XV. Amendments

This is the third amendment to the Declaration issued December 3, 2014 (79 FR 73314). The first amendment was issued December 1, 2015 (80 FR 76541). The second amendment was issued December 2, 2016 (81 FR 89471). The Secretary may amend any portion of this Declaration through publication in the **Federal Register**.

Republished Declaration

Declaration, as Amended, for Public Readiness and Emergency Preparedness Act Coverage for Ebola Disease Vaccines

This Declaration amends and republishes the December 3, 2014, Declaration, as amended on December 1, 2015 and December 2, 2016, for coverage under the Public Readiness and Emergency Preparedness (''PREP'') Act for Ebola Disease Vaccines. To the extent any term of the December 3, 2014, Declaration, as amended on December 1, 2015 and December 2, 2016, is inconsistent with any provision of this Republished Declaration, the terms of this Republished Declaration are controlling.

I. Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

42 U.S.C. 247d–6d(b)(1)

I have determined that there is a credible risk that the spread of ebolaviruses and the resulting disease or conditions constituting EBOD may in the future constitute a public health emergency. For the purposes of this Declaration, EBOD is the illness resulting from infection by viruses of any of the following viruses of the *Ebolavirus* genus:

- Bundibugyo virus
- Ebola virus
- Sudan virus
- Taï Forest virus
- ebolaviruses with undefined pathogenicity in humans

II. Factors Considered

42 U.S.C. 247d–6d(b)(6)

I have considered the desirability of encouraging the design, development, clinical testing, or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the Covered Countermeasures.

III. Recommended Activities

42 U.S.C. 247d–6d(b)(1)

I recommend, under the conditions stated in this Declaration, the manufacture, testing, development, distribution, administration, and use of the Covered Countermeasures.

IV. Liability Immunity

42 U.S.C. 247d–6d(a), 247d–6d(b)(1)

Liability immunity as prescribed in the PREP Act and conditions stated in this Declaration is in effect for the Recommended Activities described in section III.

V. Covered Persons

42 U.S.C. 247d–6d(i)(2), (3), (4), (6), (8)(A) and (B)

Covered Persons who are afforded liability immunity under this Declaration are ''manufacturers,'' ''distributors,'' ''program planners,'' ''qualified persons,'' and their officials, agents, and employees, as those terms are defined in the PREP Act, and the U.S.

In addition, I have determined that the following additional persons are qualified persons: (a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, as described below, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of an emergency; (b) any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with section 564 of the FD&C Act; or (c) any person authorized to prescribe, administer, or dispense Covered Countermeasures in accordance with Section 564A of the FD&C Act.

i. The Authority Having Jurisdiction means the public agency or its delegate that has legal responsibility and authority for responding to an incident, based on political or geographical (*e.g.,* city, county, tribal, state, or federal boundary lines) or functional (*e.g.,* law enforcement, public health) range or sphere of authority.

ii. A Declaration of emergency means any Declaration by any authorized local, regional, state, or federal official of an emergency specific to events that indicate an immediate need to administer and use the Covered Countermeasures, with the exception of a federal Declaration in support of an Emergency Use Authorization under section 564 of the FD&C Act unless such Declaration specifies otherwise.

VI. Covered Countermeasures

42 U.S.C. 247d–6b(c)(1)(B), 42 U.S.C. 247d–6d(i)(1) and (7)

Covered Countermeasures are the following EBOD vaccines:

All monovalent or multivalent ebolavirus or filovirus vaccine types against any single or combinations of the pathogens resulting in EBOD as defined in Section I of this Declaration, all components and constituent materials of these vaccines, and all devices and their constituent

components used in the administration of these vaccines:

(1) Inactivated virus vaccines
(2) Live-attenuated vaccines
(3) mRNA vaccines
(4) DNA vaccines
(5) Subunit vaccines
(6) Peptide and/or polysaccharide and/or conjugate vaccines
(7) Virion-like particles vaccines
(8) Nanoparticle vaccines
(9) Recombinant vaccines
(10) Viral vector-based vaccines

Covered Countermeasures must be ''qualified pandemic or epidemic products,'' or ''security countermeasures,'' or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the Public Health Service Act.

VII. Limitations on Distribution

42 U.S.C. 247d–6d(a)(5) and (b)(2)(E)

I have determined that liability immunity is afforded to Covered Persons only for Recommended Activities involving Covered Countermeasures that are directly supported by the U. S. Federal Government through past, present or future federal contracts, cooperative agreements, grants, other transactions, interagency agreements, memoranda of understanding, or other federal agreements or arrangements. The term ''directly supported'' in this Declaration means that the U. S. Federal Government has provided some form of tangible support such as supplies, funds, products, technical assistance, or staffing.

I have also determined that for governmental program planners only, liability immunity is afforded only to the extent such program planners obtain Covered Countermeasures through voluntary means, such as (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from state, local, or private stockpiles.

VIII. Category of Disease, Health Condition, or Threat

42 U.S.C. 247d–6d(b)(2)(A)

The category of disease, health condition, or threat for which I recommend the administration or use of the Covered Countermeasures is Ebola disease (EBOD).

IX. Administration of Covered Countermeasures

42 U.S.C. 247d–6d(a)(2)(B)

Administration of the Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution and dispensing of the countermeasures to recipients, management and operation of countermeasure programs, or management and operation of locations for purpose of distributing and dispensing countermeasures.

X. Population

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(C)

The populations of individuals include any individual who uses or is administered the Covered Countermeasures in accordance with this Declaration.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered to this population, or the program planner or qualified person reasonably could have believed the recipient was in this population.

XI. Geographic Area

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(D)

Liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered in any designated geographic area; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered in any designated geographic area, or the program planner or qualified person reasonably could have believed the recipient was in that geographic area.

XII. Effective Time Period

42 U.S.C. 247d–6d(b)(2)(B)

Liability immunity for Covered Countermeasures began on December 3, 2014, and extends through December 31, 2023.

XIII. Additional Time Period of Coverage

42 U.S.C. 247d–6d(b)(3)(B) and (C)

I have determined that an additional 12 months of liability protection is reasonable to allow for the manufacturer(s) to arrange for disposition of the Covered Countermeasure, including return of the Covered Countermeasures to the manufacturer, and for Covered Persons to take such other actions as are appropriate to limit the administration or use of the Covered Countermeasures.

Covered Countermeasures obtained for the Strategic National Stockpile (SNS) during the effective period of this Declaration are covered through the date of administration or use pursuant to a distribution or release from the SNS.

XIV. Countermeasures Injury Compensation Program

42 U.S.C. 247d–6e

The PREP Act authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to certain individuals or estates of individuals who sustain a covered serious physical injury as the direct result of the administration or use of the Covered Countermeasures, and benefits to certain survivors of individuals who die as a direct result of the administration or use of the Covered Countermeasures. The causal connection between the countermeasure and the serious physical injury must be supported by compelling, reliable, valid, medical and scientific evidence for the individual to be considered for compensation. The CICP is administered by the Health Resources and Services Administration, within the Department of Health and Human Services. Information about the CICP is available at the toll-free number 1–855–266–2427 or *http://www.hrsa.gov/cicp/.*

XV. Amendments

42 U.S.C. 247d–6d(b)(4)

Amendments to this Declaration will be published in the **Federal Register**.

Authority: 42 U.S.C. 247d–6d.

Dated: January 24, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–00260 Filed 1–30–19; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Information Technology Advisory Committee 2019 Schedule

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), HHS. ACTION: 2019 public meeting dates of the Health Information Technology Advisory Committee.

SUMMARY: The Health Information Technology Advisory Committee (HITAC) was established in accordance with section 4003(e) of the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the National Coordinator for Health Information Technology (National Coordinator). The HITAC will hold public meetings throughout 2019. See list of public meetings below.

FOR FURTHER INFORMATION CONTACT: Lauren Richie, Designated Federal Officer, at *Lauren.Richie@hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 4003(e) of the 21st Century Cures Act (Pub. L. 114–255) establishes the Health Information Technology Advisory Committee (referred to as the ''HITAC''). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Composition

The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;
- 3 members are appointed by the HHS Secretary;
  - 1 of whom shall be appointed to represent the Department of Health and Human Services and
  - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives; and
- Other members are appointed by the Comptroller General of the United States.

Members will serve for one-, two-, or three-year terms. All members may be reappointed for subsequent three-year terms. Each member is limited to two three-year terms, not to exceed six years of service. After establishment, members shall be appointed for a three-year term. Members serve without pay, but will be provided per-diem and travel costs for committee services.

Recommendations

The HITAC recommendations to the National Coordinator are publicly available at *https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it.*

Public Meetings

The schedule of meetings to be held in 2019 is as follows:

- February 20, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC 20008.
- March 20, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC 20008.
- April 10, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC 20008.
- May 13, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting).
- June 19, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting).
- September 18, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC 20008.
- October 16, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting).
- November 13, 2019 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting).

All meetings are open to the public. Additional meetings may be scheduled as needed. For web conference instructions and the most up-to-date information, please visit the HITAC calendar on the ONC website, *http://www.healthit.gov/FACAS/calendar.*

Contact Person for Meetings: Lauren Richie, *lauren.richie@hhs.gov.* A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Please email Lauren Richie for the most current information about meetings.

Agenda: As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the National Coordinator on the topics of interoperability, privacy and security, and patient access. In addition, the committee will also address any administrative matters and hear periodic reports from ONC. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its website prior to the meeting, the material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's website after the meeting, at *http://www.healthit.gov/hitac.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting.

Persons attending ONC's HITAC meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its HITAC meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Lauren Richie at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. 92–463 , 5 U.S.C., App. 2).

Dated: January 15, 2019.

Lauren Richie,

Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2019–00565 Filed 1–30–19; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: February 12–13, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00337 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.

Date: February 21–22, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, md 20892, 301–827–6830, *unja.hayes@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00359 Filed 1–30–19; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Psychosis Intervention Network (EPINET) Review Meeting.

Date: February 21, 2019.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 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.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00354 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–B Conflicts.

Date: February 12–13, 2019.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00348 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative Nutrition and Metabolic Processes Study Section.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Gregory S. Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, Bethesda, MD 20892–7892, 301–755–4335, *greg.shelness@nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00335 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; SBIR Topic 18.

Date: February 12, 2019.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1037, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00321 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: February 12–13, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00339 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information

concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; U01 RFA Panel: Tools and Technologies for the Analysis of Glycans.

Date: February 13, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00318 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Cheryl Nordstrom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 6187, Bethesda, MD 20892, 301–827–1499.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: January 23, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00417 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function D Study Section.

Date: February 13, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00327 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Digestive Diseases and Nutrition.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00345 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Cellular and Molecular Technologies Study Section.

Date: February 20–21, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00355 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00326 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer Network [2019/05 ZAG1 ZIJ–U M1].

Date: February 21, 2019.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anita H. Undale, Ph.D., MD, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 240–747–7825, *anita.undale@nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00357 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.

Date: February 14–15, 2019.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Blvd., Long Beach, CA 90802.

Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due

to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00340 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Drug Discovery and Molecular Pharmacology Study Section.

Date: February 19–20, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW, Washington, DC 20008.

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00342 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Clinical Management of Patients in Community-based Settings Study Section.

Date: February 13–14, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lauren Fordyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, Bethesda, MD 20892, 301–827–8269, *fordycelm@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 23, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00408 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: February 11–12, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Warwick Denver, 1776 Grant Street, Denver, CO 80203.

Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3172, Bethesda, MD 20892, 301–437–7872, *cowleshw@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00319 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

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 Neurological Disorders and Stroke Special Emphasis Panel; Brain Review Meeting.

Date: February 10–11, 2019.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kimpton Hotel Monaco, 700 F. Street NW, Washington, DC 20004.

Contact Person: W. Ernest W. Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 23, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00409 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK KUH Fellowship Review.

Date: February 8, 2019.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7023, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00352 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: February 25–26, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW, Washington, DC 20037.

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301–435–2514, *riverase@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00341 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Voice, Speech and Language Fellowship Review.

Date: February 15, 2019.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301–496–8683, *yangshi@nidcd.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 23, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00407 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Type 1 Diabetes Ancillary Studies (R01).

Date: February 12, 2019.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00351 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review; Group Imaging Guided Interventions and Surgery Study Section.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ileana Hancu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20817, 301–402–3911, *ileana.hancu@nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00333 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Mechanisms of Cancer Therapeutics—1 Study Section.

Date: February 7–8, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–905–8294, *Rahman-sesay@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00325 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Academic—Industrial Partnerships Research for Cancer Diagnosis and Treatment.

Date: February 8, 2019.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00336 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Awards Review Meeting.

Date: February 12, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1068, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00320 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–17–270: NIDDK Central Repositories Non-renewable Sample Access (X01).

Date: February 4, 2019.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 24, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00344 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–042: Ancillary Studies to Major Ongoing Clinical Research Studies (R01).

Date: February 6, 2019.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00347 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RC2: Precision Dietetics.

Date: February 12, 2019.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00350 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Integrative Nutrition and Metabolic Processes.

Date: February 14, 2019.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301–435–2514, *riverase@csr.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00331 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2 for Provocative Questions.

Date: February 28, 2019.

Time: 8:00 a.m. to 4:00 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: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W112, Bethesda, MD 20892–9750, 240–276–5864, *jennifer.schiltz@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: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00343 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; SBIR Topic 17.

Date: February 12, 2019.

Time: 1:00 p.m. to 2:45 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1037, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00324 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892,93.893, National Institutes of Health, HHS)

Dated: January 24, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00410 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: February 12–13, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Officer, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00334 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Probes and Contrast Agents Study Section.

Date: February 14–15, 2019.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA 22311.

Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due

to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00338 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; National Children's Study (NCS) Vanguard Data and Sample Archive and Access System (Eunice Kennedy Shriver National Institute of Child Health and Human Development)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jack Moye, Jr., MD, Bldg. 6710B, Rm. 2130, MSC 7002, 9000 Rockville Pike, Bethesda, MD, 20892–7002, or call non-toll-free number (301) 594–8624 or Email your request, including your address to: *NCSArchive@s-3.net.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 8, 2018, page 55905 (83 FR 55905) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: National Children's Study (NCS) Vanguard Data and Sample Archive and Access System, 0925–0730 exp. date 2/28/2019—EXTENSION *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: NICHD requires institutional and investigator contact information from users of the NCS Data and Sample Archive and Access System (NCS Archive). This information collected from potential data users is necessary to fulfill the requirements of their proposed research projects, ensure compliance with Department of Health and Human Services regulations for the protection of human subjects in research (45 CFR 46) and the Common Rule (45 CFR 46 Subpart A), and to document, track, and monitor the use of the NCS Archive, which provides opportunities for qualified researchers to use data and samples collected by the NCS Vanguard phase, for approved research projects. The information in addition will help NIH better understand the use of archived data and samples by the research community. There is no plan to publish the data collected under this request other than to post on the NCS Archive website the titles of approved research projects together with project investigators' institutional affiliations. The data otherwise are for internal monitoring purposes only, to assess the archive resource requirements and for quality improvement.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 109.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form	Number of respondents	Frequency of response	Average time per response (hours)	Total annual burden hours
Research scientists	NCS Vanguard Data User Agreement.	300	1	10/60	50
Research scientists	NCS Vanguard Data Request Form	50	1	20/60	17
Research scientists	NCS Vanguard Data and Sample Request Form.	50	1	30/60	25
Research scientists	Research Materials Distribution Agreement.	100	1	10/60	17
Total		500	500		109

Dated: January 24, 2019.

Jennifer M. Guimond,

Project Clearance Liaison, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health.

[FR Doc. 2019–00437 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: February 13–14, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00329 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: A2CPS—Multisite Clinical Centers and Clinical Coordinating Centers.

Date: February 8, 2019.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@csr.nih.gov*.

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00332 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: February 21–22, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036.

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00356 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–031: Characterization and Discovery of Novel Autoantigens and Epitopes in Type 1 Diabetes (R01).

Date: February 13, 2019.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00346 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: February 19, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00322 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: February 11, 2019.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 500–5829, *sechu@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 24, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00416 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK P01 Review.

Date: February 5, 2019.

Time: 4:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health Room 7023, 6707 Democracy Boulevard, Bethesda, MD 20892–5452,(301) 594–4719, *guox@extra.niddk.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00353 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Investigational Agent Accountability Record Forms in the Conduct of Investigational Trials for the Treatment of Cancer (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Charles Hall, Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, Division of Cancer Diagnosis and Treatment, National Cancer Institute, 9609 Medical Center Drive, Bethesda, Maryland 20892 or call non-toll-free number (240) 276–6575 or Email your request, including your address to: *HallCh@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 25, 2018 (83 FR 53885) and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Investigational Agent Accountability Record Forms in the Conduct of Investigational Trials for the Treatment of Cancer, 0925–0613, Expiration Date 3/31/2019, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The U.S. Food and Drug Administration (FDA) holds the National Cancer Institute (NCI), Division of Cancer Treatment and Diagnosis/ Cancer Therapy Evaluation Program (NCI/DCTD/CTEP) and the Division of Cancer Prevention (DCP) responsible, as a sponsor of investigational drug trials, to assure the FDA that systems for accountability are being maintained by investigators in its clinical trials program. Data obtained from the Investigational Agent Accountability Record Forms (aka. Drug Accountability Record Forms—DARF) are used to track the dispensing of investigational anticancer agents from receipt from the NCI to dispensing or administration to patients. Requirements for the tracking of investigational agents under an Investigational New Drug Application are outlined in Title 21 Code of Federal Regulations (CRF) part 312. NCI and/or its auditors use this information to ensure compliance with federal regulations and NCI policies. Previously, the investigator registration forms and process were part of this submission. These forms were more appropriately submitted and approved under the CTEP Branch and Support Contracts Forms and Surveys in July 2018 (OMB No. 0925–0753; Expiration Date 7/31/2021). Thus, the investigator registration forms are no longer included in this request.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden are 3,033 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Individuals (DARF)	2,133	16	4/60	2,275
Individuals (DARF-Oral)	711	16	4/60	758
Total	2,844	45,504		3,033

Patricia M. Busche,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2019–00447 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

Date: February 7–8, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9448, *shinako.takada@nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00328 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular and Cellular Endocrinology Study Section.

Date: February 7, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: San Diego Marriott Mission Valley, 8757 Rio San Diego Drive, San Diego, CA 92108.

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 24, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00363 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Diabetes, Endocrinology and Metabolic Diseases.

Date: February 12–13, 2019.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00349 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Statistical Analysis in Late Phase Clinical Trial Design.

Date: February 15, 2019.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Baltimore Washington Airport Hotel, 1100 Old Elkridge Landing Road, Linthicum Heights, MD 21090.

Contact Person: David A. Wilson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892, 301–827–7953, *wilsond@nhlbi.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government Shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 25, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00323 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: February 7–8, 2019.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, Torrance, CA 90503.

Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the partial Government shutdown of December 2018.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–00330 Filed 1–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Treatment Episode Data Set (TEDS) (OMB No. 0930–0335)—Extension

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting an extension to collect the Treatment Episode Data Set (TEDS) data collection (OMB No. 0930–0335), which expires on March 31, 2019. TEDS is a compilation of client-level substance use treatment admission and discharge data submitted by states on clients treated in facilities that receive state funds. SAMHSA is also requesting an extension to collect the client-level mental health admission and update/discharge data (MH–TEDS/MH–CLD) submitted by states on clients treated in facilities that receive state funds (also OMB No. 0930–0335).

TEDS/MH–TEDS/MH–CLD data are collected to obtain information on the number of admissions and updates/discharges at publicly funded substance use treatment and mental health services facilities and on the characteristics of clients receiving services at those facilities.

TEDS/MH–TEDS/MH–CLD also monitor trends in the demographic, substance use, and mental health characteristics of admissions. In addition, several of the data elements used to calculate performance measures for the Substance Abuse Block Grant (SABG) and Mental Health Block Grant (MHBG) applications are collected through the TEDS/MH–TEDS/MH–CLD.

Most states collect the TEDS/MH–TEDS/MH–CLD data elements from their treatment providers for their own administrative purposes and are able to submit a cross-walked extract of their data to TEDS/MH–TEDS/MH–CLD. No changes are expected in the TEDS/MH–TEDS/MH–CLD data elements that are collected.

Estimated annual burden for the separate TEDS/MH–TEDS/MH–CLD activities is as follows:

Type of activity	Number of respondents (states/jurisdictions)	Responses per respondent	Total responses	Hours per response	Total burden hours
TEDS Admission Data	52	4	208	6.25	1,300
TEDS Discharge Data	52	4	208	8.25	1,716
TEDS Crosswalks	5	1	5	10	50
MH–CLD BCI Data	30	1	30	30	900
MH–CLD SHR Data	30	1	30	5	150
MH–TEDS Admissions Data	29	4	116	6.25	725
MH–TEDS Update/Discharge Data	29	4	116	8.25	957
MH–TEDS Crosswalks	10	1	10	10	100
Total	59	.....	723	.....	5,898

Written comments and recommendations concerning the proposed information collection should be sent by March 4, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285.

Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–00420 Filed 1–30–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: 2019 National Survey on Drug Use and Health (OMB No. 0930–0110)—Extension

The National Survey on Drug Use and Health (NSDUH) is a survey of the U.S. civilian, non-institutionalized population aged 12 years old or older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy (ONDCP), federal government agencies, and other organizations and researchers to establish policy, to direct program activities, and to better allocate resources.

This is an extension to the 2019 National Survey on Drug Use and Health (NSDUH). There are no substantive changes to the questionnaire or changes in burden. The 2019 NSDUH will continue to include questions on medication-assisted treatment (MAT) and kratom.

As with all NSDUH surveys conducted since 1999, including those prior to 2002 when the NSDUH was referred to as the National Household Survey on Drug Abuse, the sample size of the survey for 2019 will be sufficient to permit prevalence estimates for each of the 50 states and the District of Columbia. The total annual burden estimate is shown below in Table 1.

TABLE 1—ANNUALIZED ESTIMATED BURDEN FOR 2019 NSDUH

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Household Screening	137,231	1	137,231	0.083	11,390
Interview	67,507	1	67,507	1.000	67,507
Screening Verification	4,116	1	4,116	0.067	276
Interview Verification	10,126	1	10,126	0.067	678
Total	137,231	.....	218,980	.....	79,851

Written comments and recommendations concerning the proposed information collection should be sent by March 4, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–00419 Filed 1–30–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Data Resource Toolkit Protocol for the Crisis Counseling Assistance and Training Program (OMB No. 0930–0270)—Reinstatement

The SAMHSA Center for Mental Health Services (CMHS) as part of an interagency agreement with the Federal Emergency Management Agency (FEMA) provides a toolkit to be used for the purposes of collecting data on the Crisis Counseling Assistance and Training Program (CCP). The CCP provides supplemental funding to states and territories for individual and community crisis intervention services after a presidentially declared disaster.

The CCP has provided disaster mental health services to millions of disaster survivors since its inception, and, with more than 30 years of accumulated expertise, it has become an important model for federal response to a variety of catastrophic events. Recent CCP grants include programs in Puerto Rico, the U.S. Virgin Islands, Florida, Texas, Tennessee, California, Missouri, Louisiana, and West Virginia. These grants have helped survivors after disasters including Hurricanes Harvey, Maria, and Irma in 2017; wildfires, severe storms, flooding, and tornadoes in 2016 and 2017; and landslides and mudslides in 2016. CCPs address the short-term mental health needs of communities primarily through (a) outreach and public education, (b) individual and group counseling, and (c) referral. Outreach and public education serve primarily to normalize reactions and to engage people who may need further care. Crisis counseling assists survivors in coping with current stress and symptoms to return to pre-disaster functioning. Crisis counseling relies largely on ''active listening,'' and

crisis counselors also provide psycho-education (especially about the nature of responses to trauma) and help clients build coping skills. Crisis counselors typically work with a single client once or a few times. Because crisis counseling is time-limited, referral is the third important function of CCPs. Counselors are expected to refer a survivor to formal treatment if he or she has developed a mental and/or substance use disorder or is having difficulty in coping with his or her disaster reactions.

Data about services delivered and users of services will be collected throughout the program period. The data will be collected via the use of a toolkit that relies on standardized forms. At the program level, the data will be entered quickly and easily into a cumulative database mainly through mobile data entry or paper forms (depending on resource availability) to yield summary tables for quarterly and final reports for the program. Mobile data entry allows for the data to be uploaded and linked to a national database that houses data collected across CCPs. This database provides SAMHSA/CMHS and FEMA with a way of producing summary reports of services provided across all programs funded.

The components of the toolkit are listed and described below:

- *Encounter logs.* These forms document all services provided. The CCP requires crisis counselors to complete these logs. There are three types of encounter logs: (1) Individual/Family Crisis Counseling Services Encounter Log, (2) Group Encounter Log, and (3) Weekly Tally Sheet.
  - *Individual/Family Crisis Counseling Services Encounter Log.* Crisis counseling is defined as an interaction that lasts at least 15 minutes and involves participant disclosure. This form is completed by the crisis counselor for each service recipient, defined as the person or people who actively participated in the session (that is, by participating in conversation), not someone who is merely present. The same form may be completed with other family or household members who are actively engaged in the visit. Information collected includes demographics, service characteristics, risk factors, event reactions, and referral data.
  - *Group Encounter Log.* This form is used to collect data on either a group crisis counseling encounter or a group public education encounter. The crisis counselor indicates in a checkbox at the top the class of activities (that is, counseling or education). Information collected includes service characteristics, group identity and characteristics, and group activities.
  - *Weekly Tally Sheet.* This form documents brief educational and supportive encounters not captured on any other form. Information collected includes service characteristics, daily tallies, and weekly totals for brief educational or supportive contacts and for material distribution with no or minimal interaction.
- *Assessment and Referral Tools.* These tools—one for adults and one for children and youth—provide descriptive information about intensive users of services, defined as all individuals receiving a third individual crisis counseling visit or those who are continuing to experience severe distress that may be affecting their ability to perform daily activities. This tool will typically be used beginning 3 months after the disaster and will be completed by the crisis counselor.
- *Participant Feedback Survey.* These surveys are completed by and collected from a sample of service recipients, not every recipient. Sampling is done on a biannual basis at 6 months and 1 year after the disaster. Information collected includes satisfaction with services, perceived improvements in coping and functioning, types of exposure, and event reactions.
- *Service Provider Feedback Form.* These surveys are completed by and collected from the CCP service providers anonymously at 6-months and 1-year after the disaster. The survey will be coded on several program-level as well as worker-level variables. However, the program itself will be identified and shared with program management only if the number of individual workers who completed the survey was greater than 10.

There are no changes to the Individual Encounter Log, Group Encounter Log, Weekly Tally, and the Assessment and Referral Tools since the last approval. Revisions include the addition of a gross annual household income question to the Participant Feedback Survey form. For the Service Provider Feedback Form, questions about different types of CCP training and their usefulness were updated to improve capturing training feedback. CMHS also added a new section to mobile technology and data entry, and the questions in this section were updated from the previous form where they were listed under a different section. Finally, CMHS has added questions related to the counselors' income and personal experience(s) with the disaster, as they are typically members of the affected community prior to employment by the CCP, and program leadership is responsible for monitoring the counselors' stress levels.

In Table 1 are the estimates of the annualized burden hours.

TABLE 1—ANNUALIZED HOUR BURDEN ESTIMATES

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Individual/Family Crisis Counseling Services Encounter Log	600	196	0.08	9,408
Group Encounter Log	100	33	0.05	165
Weekly Tally Sheet	600	52	0.15	4,680
Assessment and Referral Tools	600	14	0.17	1,428
Participant Feedback Form	1,000	1	0.25	250
Service Provider Feedback Form	100	1	0.41	41
Total	3,000			15,972

Written comments and recommendations concerning the proposed information collection should be sent by March 4, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to

send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–00421 Filed 1–30–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–1243.

Project: Substance Abuse Prevention and Treatment Block Grant Synar Report Format, FFY 2020–2022—(OMB No. 0930–0222)—Extension

Section 1926 of the Public Health Service Act [42 U.S.C. 300x–26] stipulates that Substance Abuse Prevention and Treatment Block Grant (SABG) funding agreements for alcohol and drug abuse programs for fiscal year 1994 and subsequent fiscal years require states to have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18. This section further requires that states conduct annual, random, unannounced inspections to ensure compliance with the law; that the state submit annually a report describing the results of the inspections, the activities carried out by the state to enforce the required law, the success the state has achieved in reducing the availability of tobacco products to individuals under the age of 18, and the strategies to be utilized by the state for enforcing such law during the fiscal year for which the grant is sought.

Before making an award to a state under the SABG, the Secretary must make a determination that the state has maintained compliance with these requirements. If a determination is made that the state is not in compliance, penalties shall be applied. Penalties ranged from 10 percent of the Block Grant in applicable year 1 (FFY 1997 SABG Applications) to 40 percent in applicable year 4 (FFY 2000 SABG Applications) and subsequent years. Respondents include the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, Micronesia, and the Marshall Islands. Red Lake Indian Tribe is not subject to tobacco requirements.

Regulations that implement this legislation are at 45 CFR 96.130, are approved by OMB under control number 0930–0163, and require that each state submit an annual Synar report to the Secretary describing their progress in complying with section 1926 of the PHS Act. The Synar report, due December 31 following the fiscal year for which the state is reporting, describes the results of the inspections and the activities carried out by the state to enforce the required law; the success the state has achieved in reducing the availability of tobacco products to individuals under the age of 18; and the strategies to be utilized by the state for enforcing such law during the fiscal year for which the grant is sought. SAMHSA's Center for Substance Abuse Prevention will request an extension of OMB approval of the current report format associated with section 1926 (42 U.S.C. 300x–26) to 2022. Extending OMB approval of the current report format will continue to facilitate consistent, credible, and efficient monitoring of Synar compliance across the states.

ANNUAL REPORTING BURDEN

45 CFR citation	Number of respondents [1]	Responses per respondents	Total number of responses	Hours per response	Total hour burden
Annual Report (Section 1—States and Territories) 96.130(e)(1–3)	59	1	59	15	885
State Plan (Section II—States and Territories) 96.130(e)(4,5)96.130(g)	59	1	59	3	177
Total	59		118		1,062

[1] Red Lake Indian Tribe is not subject to tobacco requirements.

Written comments and recommendations concerning the proposed information collection should be sent by March 4, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–00422 Filed 1–30–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2018–N112; FXES11130100000C4–189–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; 26 Draft Recovery Plan Amendments for 42 Species Across the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of 26 draft recovery plan amendments for 42 endangered and threatened species. We are amending recovery criteria to better assist in determining when an endangered species has recovered to the point that it may be reclassified as threatened, or that the protections afforded by the Endangered Species Act of 1973, as amended (Act), are no longer necessary and the endangered species may be removed from the Act's protections. We request review and comments on these draft recovery plan amendments from local, State, Tribal, and Federal agencies, nongovernmental organizations, and the public.

DATES: In order to be considered, comments on the draft recovery plan amendments must be received on or before April 1, 2019.

ADDRESSES: *Reviewing documents:* If you wish to review these draft recovery plan amendments, you may obtain copies from the website addresses listed in the table provided in **SUPPLEMENTARY INFORMATION**. You may also request copies of draft recovery plan amendments by contacting the individuals listed in the table provided in this notice, relevant to each species or recovery plan, or both.

Submitting comments: If you wish to comment, see the table provided in this notice and you may submit your comments by one of the following methods:

1. You may submit written comments and materials to each field office mailing address for the species in which you are interested;

2. You may hand-deliver written comments to each field office, in the table at the identified address, for the species in which you are interested; or

3. You may send comments by email to the identified contact person's email address in the table, for each species. Please include ''Amended Recovery Plan Comments'' in the subject line.

FOR FURTHER INFORMATION CONTACT: For information on a particular species, contact the appropriate person listed in the table for each species in **SUPPLEMENTARY INFORMATION**. Individuals who are hearing impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

In this notice, we announce the availability of 26 draft recovery plan amendments, which revise recovery criteria for 42 endangered and threatened species, for public review and comment. These 26 draft recovery plan amendments are a subset of a larger effort under way to revise up to 182 recovery plans covering up to 305 species in order to achieve the following Department of the Interior Agency Priority Performance Goal outlined in the Department's Strategic Plan for Fiscal Years 2018–2022: ''By September 30, 2019, 100% of all Fish and Wildlife Service recovery plans will have quantitative criteria for what constitutes a recovered species.'' Given the timeline associated with this Agency Priority Performance goal, we are relying on the public comment period to facilitate an efficient communication, coordination, and collaboration process with the wide variety of potential stakeholders we consider essential to the development and implementation of recovery plans. Recovery plans must be designed so that all stakeholders and the public understand the rationale behind the recovery program, whether they were involved in writing the plan or not, and recognize their role in its implementation. We are, therefore, requesting submission of any information that may help achieve (1) the necessary understanding of species' biology, threats and recovery needs; (2) identification of implementation issues and concerns; and (3) facilitation of more effective implementation, associated with these draft amendments that revise recovery criteria for these 42 species.

The Service is required to develop and implement recovery plans ''for the conservation and survival'' of listed species under section 4(f) of the Act, unless the Service finds that developing a recovery plan would not promote the conservation of the species. The Act also requires inclusion of: (1) ''Site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species''; (2) ''Objective, measurable criteria which, when met, would result in a determination . . . that the species be removed from the list''; and (3) ''Estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.''

The purpose of a recovery plan is to provide a roadmap for a species' recovery, with the goal of improving its status and managing its threats to the point at which protections under the Act are no longer needed. A recovery plan identifies, organizes, and prioritizes recovery actions and is, therefore, an important guide to ensure sound scientific decision-making throughout the recovery process, which can take decades. Recovery plans provide important guidance to the Service, States, other partners, and the general public on methods of minimizing threats to listed species and measurable objectives against which to measure the progress towards recovery; they are guidance and not regulatory documents.

Recovery plans should be consulted frequently, used to initiate recovery activities, and updated as needed. Keeping recovery plans current will ensure that the species benefits through timely, partner-coordinated implementation, based on the best available information. A review of the recovery plan and its implementation, however, may show that the recovery plan is out of date or its usefulness is limited and, therefore, warrants modification. The need for, and extent of, recovery plan modifications will vary considerably among recovery plans, depending on the scope and complexity of the initial plan, the structure of the document, and the involvement of stakeholders.

The need for revision may be triggered when, among other possibilities: (1) New information has been identified, such as population-level threats to the species or previously unknown life-history traits, that necessitates new or revised recovery strategy, actions, or criteria, or revision of all three; (2) the current recovery plan is out of date with regard to the information presented in it or requirements for an adequate recovery plan (a recovery strategy, threats-based recovery criteria, etc.); or (3) the current plan is not achieving its objectives. An amendment, a type of recovery plan revision, is more limited in scope than a full revision of the recovery plan and modifies an existing plan, rather than replacing the entire existing recovery plan. Revisions benefit endangered and threatened species, our partners, and the public by incorporating new information about life history, threats, and/or species' response to management from study findings and focusing on what is really needed for species' recovery.

Recovery criteria serve as objective, measurable guidelines to assist in determining when an endangered species has recovered to the point that it may be downlisted to threatened, or that the protections afforded by the Act are no longer necessary and the species may be delisted. Delisting is the removal of a species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Downlisting is the reclassification of a species from an endangered species to a threatened species. The term ''endangered species''

means any species (species, subspecies, or distinct population segment) that is in danger of extinction throughout all or a significant portion of its range. The term ''threatened species'' means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Recovery criteria should help indicate when we would anticipate that an analysis of the species' status under section 4(a)(1) would result in a determination that the species is no longer an endangered or threatened species. A decision to revise the status of or remove a species from the Federal Lists of Endangered and Threatened Wildlife and Plants, however, is ultimately based on an analysis of the threats to the species in accordance with sections 4(a)(1) and 4(b) of the Act and made ''solely on the basis of the best scientific and commercial data available,'' regardless of whether that information differs from the recovery plan. When changing the status of a species, we first propose the action in the **Federal Register** to seek public comment and peer review, followed by a final decision announced in the **Federal Register**.

Revision of recovery plans requires public notice and comment under section 4(f)(4) of the Act, including: (1) A **Federal Register** notice of availability to give opportunity for public review and comment; (2) consideration of all information presented during the public comment period; and (3) approval by the Regional Director. When finalized, these recovery plan amendments will be made publicly available on the internet through our Environmental Conservation Online System (ECOS, *https://ecos.fws.gov*).

What plans are being made available for public review and comment?

This notice announces our draft recovery plan amendments for the species listed in the table below.

PROPOSED RECOVERY PLAN AMENDMENTS

Common name	Scientific name	Listing status[1]	Current range	Recovery plan name	Uniform resource locator to proposed recovery plan amendment	Contact person, phone, email	Contact person's U.S. mail address
Pacific Region (Idaho, Oregon, Washington, Hawaii, and the Pacific Islands)							
Snails, Oahu tree ...	*Achatinella* spp.	E	HI	Recovery Plan for the Oahu Tree Snails of the Genus *Achatinella*.	*https://ecos.fws.gov/docsrecovery_plan/Achatinella_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*	Gregory A. Koob, Assistant Field Supervisor, 808–792–9449, *gregory_koob@fws.gov.*	Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850.
Silversword, Mauna Loa (=Ka'u).	*Argyroxiphium kauense*.	T	HI	Recovery Plan for the Ka'u Silversword (*Argyroxiphium kauense*).	*https://ecos.fws.gov/docsrecovery_plan/ARGKAU_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
'Ahinahina	*Argyroxiphium sandwicense* ssp. *sandwicense*.	E	HI	Recovery Plan for the Mauna Kea Silversword (*Argyroxiphium sandwicense* ssp.*sandwicense*).	*https://ecos.fws.gov/docsrecovery_plan/ARGSANSAN_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
Koki'o	*Kokia drynarioides*	E	HI	Recovery Plan for *Caesalpinia kavaiensis* and *Kokia drynarioides*.	*https://ecos.fws.gov/docsrecovery_plan/KOKDRY_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
Uhi uhi	*Mezoneuron kavaiense*.	E	HI		*https://ecos.fws.gov/docsrecovery_plan/MEZKAV_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
Aupaka	*Isodendrion hosakae*.	E	HI	Recovery Plan for *Lipochaeta venosa* and *Isodendrion hosakae*.	*https://ecos.fws.gov/docsrecovery_plan/ISOHOS_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
No common name ..	*Lipochaeta venosa*	E	HI		*https://ecos.fws.gov/docsrecovery_plan/LIPVEN_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
Hawaiian petrel	*Pterodroma sandwichensis*.	E	HI	Hawaiian Dark-rumped Petrel and Newell's Manx Shearwater Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/HAPE_Draft_Recovery_Plan_Amendment_20180806.pdf.*		

PROPOSED RECOVERY PLAN AMENDMENTS—Continued

Common name	Scientific name	Listing status [1]	Current range	Recovery plan name	Uniform resource locator to proposed recovery plan amendment	Contact person, phone, email	Contact person's U.S. mail address
Newell's Townsend's shearwater.	*Puffinus auricularis newelli.*	T	HI		*https://ecos.fws.gov/docsrecovery_plan/NESH_Draft_Recovery_Plan_Amendment_20180806.pdf.*		
Vetch, Hawaiian	*Vicia menziesii*	E	HI	*Vicia menziesii* Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/VICMEN_Draft%20Recovery%20Plan%20Amendment_20180801.pdf.*		
Rabbit, Columbia Basin Pygmy.	*Brachylagus idahoensis.*	E	WA	Recovery Plan for the Columbia Basin Distinct Population Segment of the Pygmy Rabbit (*Brachylagus idahoensis*).	*https://ecos.fws.gov/docsrecovery_plan/Pygmy%20Rabbit%20Draft%20Recovery%20Plan%20Amendment%2020180731.pdf.*	Michelle Eames, Fish and Wildlife Biologist, 509–891–6839, *michelle_eames@fws.gov.*	Eastern Washington Field Office, 11103 E. Montgomery Dr., Spokane Valley, WA 99206.
Stickseed, showy	*Hackelia venusta* ...	E	WA	Recovery Plan for *Hackelia venusta* (Showy Stickseed).	*https://ecos.fws.gov/docsrecovery_plan/Hackelia_venusta_Draft_Recovery_Plan_Amendment_20180806.pdf.*	Gregg Kurz, 509–665–3508, *gregg_kurz@fws.gov.*	Central Washington Field Office, 215 Melody Lane, Suite 103, Wenatchee, WA 98801.
Southwest Region (Arizona, New Mexico, Oklahoma, and Texas)							
Brady pincushion cactus.	*Pediocactus bradyi*	E	AZ	Brady Pincushion Cactus (*Pediocactus bradyi*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Brady%20Pincushion_clean.pdf.*	Field Supervisor, 602–242–0210, *AZcriteria@fws.gov.*	Arizona Ecological Services Field Office, 9828 North 31st Avenue, #C#, Phoenix, Arizona 85051.
Siler pincushion cactus.	*Pediocactus sileri* ...	T	AZ, UT	Siler Pincushion Cactus (*Pediocactus sileri*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Siler%20Pincushion_clean.pdf.*		
Sacramento prickly poppy.	*Argemone pleiacantha* ssp. *pinnatisecta.*	E	NM	Sacramento Prickly-Poppy (*Argemone pleiacantha* ssp. *pinnatisecta*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/20180816_Draft%20Recovery%20Plan%20Amendment_Sacramento%20prickly%20poppy_clean.pdf.*	Susan Millsap, Field Office Supervisor, 505–761–4781, *susan_millsap@fws.gov.*	New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico 87113.
Lee pincushion cactus.	*Coryphantha sneedii* var. *leei.*	T	NM	Sneed and Lee Pincushion Cacti (*Coryphantha sneedii* var. *sneedii* and *Coryphantha sneedii* var. *leei*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_SneedLee%20Pincuschion_clean.pdf.*		
Sneed pincushion cactus.	*Coryphantha sneedii* var. *sneedii.*	E	NM, TX				
Kuenzler hedgehog cactus.	*Echinocereus fendleri* var. *kuenzleri.*	T	NM	Kuenzler Hedgehog Cactus (*Echinocereus fendleri* var. *kuenzleri*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Kuenzler%20Hedgehog%20Cactus_clean.pdf.*		
Zuni fleabane	*Erigeron rhizomatus*	T	AZ, NM	Zuni Fleabane (*Erigeron rhizomatus*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Zuni%20Fleabane_clean.pdf.*		

PROPOSED RECOVERY PLAN AMENDMENTS—Continued

Common name	Scientific name	Listing status [1]	Current range	Recovery plan name	Uniform resource locator to proposed recovery plan amendment	Contact person, phone, email	Contact person's U.S. mail address
Holy Ghost ipomopsis.	*Ipomopsis sanctispiritus.*	E	NM	Holy Ghost Ipomopsis (*Ipomopsis sanctispiritus*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/20180816_Draft%20Recovery%20Plan%20Amendment_Holy%20Ghost%20Ipomopsis_clean.pdf.*		
Knowlton's cactus ...	*Pediocactus knowltonii.*	E	CO, NM	Knowlton's Cactus (*Pediocactus knowltonii*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Knowltons%20cactus_clean.pdf.*		
Socorro isopod	*Thermosphaeroma thermophilus.*	E	NM	Soccoro Isopod Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Socorro%20Isopod_clean.pdf.*		
Star cactus	*Astrophytum asterias.*	E	TX	Star Cactus (*Astrophytum asterias*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Star%20Cactus_clean.pdf.*	Dawn Gardiner, Assistant Field Supervisor, 361–994–9005x259, *dawn_gardiner@fws.gov.*	Texas Coastal Ecological Services Field Office—Corpus Christi, 4444 Corona Drive, Suite 215, Corpus Christi, Texas 78411.
Zapata bladderpod	*Lesquerella thamnophila.*	E	TX	Zapata Bladderpod (*Lesquerella thamnophila*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Rec%20Plan%20Amendment_Z%20bladderpod_clean.pdf.*		
Coffin Cave mold beetle.	*Batrisodes texanus*	E	TX	Endangered Karst Invertebrates (Travis and Williamson Counties, Texas) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment_Travis-Williamson-Karst-Inverts_clean.pdf.*	Adam Zerrenner, Field Supervisor, 512–490–0057x248, *adam_zerrenner@fws.gov.*	Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200 Austin, Texas 78758.
Tooth Cave spider ..	*Neoleptoneta myopica.*	E	TX				
Tooth Cave ground beetle.	*Rhadine persephone.*	E	TX				
Tooth Cave pseudoscorpion.	*Tartarocreagris texana.*						
Kretschmarr Cave mold beetle.	*Texamaurops reddelli.*	E	TX				
Bee Creek Cave harvestman.	*Texella reddelli*	E	TX				
Bone Cave harvestman.	*Texella reyesi*	E	TX				
Tobusch fishhook cactus.	*Sclerocactus brevihamatus* ssp. *tobuschii.*	E	TX	Tobusch Fishhook Cactus (*Ancistrocactus tobuschii*) Recovery Plan.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20SCLTOB%20Recovery%20Plan%20Amendment_clean.pdf.*		
Pacific Southwest Region (California, Nevada, and the Klamath Basin area of Oregon)							
Marsh sandwort	*Arenaria paludicola*	E	CA, WA	Recovery Plan for Marsh Sandwort (*Arenaria paludicola*) and Gambel's Watercress (*Rorippa gambelii*).	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment%20NAGA%20ROGA.pdf.*	Cat Darst, Assistant Field Supervisor, 805–644–1766, *r8ventura-recoverycomments@fws.gov.*	Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.
Gambel's watercress.	*Rorippa gambellii* ...	E	CA				
Pismo clarkia	*Clarkia speciosa* ssp. *immaculata.*	E	CA	Recovery Plan for the Morro Shoulderband Snail and Four Plants from San Luis Obispo County, California.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment%20IKMB%20CCBT%20PismoClarkia.pdf.*		
Chorro Creek bog thistle.	*Cirsium fontinale* var. *obispoense.*	E	CA				
Indian Knob mountainbalm.	*Eriodictyon altissimum.*	E	CA				

PROPOSED RECOVERY PLAN AMENDMENTS—Continued

Common name	Scientific name	Listing status[1]	Current range	Recovery plan name	Uniform resource locator to proposed recovery plan amendment	Contact person, phone, email	Contact person's U.S. mail address
Scotts Valley spineflower.	*Chorizanthe robusta* var. *hartwegii.*	E	CA	Recovery Plan for Insect and Plant Taxa from the Santa Cruz Mountains in California.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment%20ScottsValleySpineflower.pdf.*		
Coastal dunes milkvetch.	*Astragalus tener* var. *titi.*	E	CA	Recovery Plan for Five Plants from Monterey County, California.	*https://ecos.fws.gov/docsrecovery_plan/Draft%20Recovery%20Plan%20Amendment%20MClover%20CDMVetch%20YAPP%20HickPot.pdf.*		
Yadon's piperia	*Piperia yadonii*	E	CA				
Hickman's potentilla	*Potentilla hickmanii*	E	CA				
Monterey clover	*Trifolium trichocalyx*						

[1] E = endangered; T = threatened.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. You may also direct questions to those contacts. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

Request for Public Comments

We request written comments on the draft recovery plan modifications. We will consider all comments we receive by the date specified in **DATES** prior to final approval of the plans.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1533 (f)).

Dated: August 28, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2019–00436 Filed 1–30–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on December 17, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Abre, Cincinnati, OH; Brigham Young University—Idaho, Rexburg, ID; Casio, Tokyo, JAPAN; CatchOn, Nashville, TN; Crosstown High School, Memphis, TN; GG4L—Global Grid For Learning, Alameda, CA; Hall County Board of Education, Gainesville, GA; Learning Logistics, McKinney, TX; Madison College/Digital Credentials Institute, Madison; WI; and Michigan Collaboration Hub (fiduciary of the Michigan Data Hub), Lansing, MI, have been added as parties to this venture.

Also, Placid Consulting, Cedar Park, TX; Virtual High School, Maynard, MA; Indian River School District, Selbyville, DE; and Loudon County Public Schools, Ashburn, VA, have withdrawn as parties to this venture.

In addition, Norwegian Centre for ICT in Education has changed its name to Norwegian Directorate for Education, Hamar, NORWAY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on October 1, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 12, 2018 (83 FR 51706).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–00495 Filed 1–30–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on December 13, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the

Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bloomberg, LP, London, UNITED KINGDOM; Technology and Production Center Switzerland AG, Zurich, SWITZERLAND; and Nico de Gunst (individual member), Amersfoort, NETHERLANDS, have been added as parties to this venture.

Also, Juniper Networks, Sunnyvale, CA; and Barco Silex, Louvain-La-Neuve, BELGIUM, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 10, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 20, 2018 (83 FR 47642).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–00494 Filed 1–30–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on December 13, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), R Consortium, Inc. (''R Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Genentech, Inc., San Francisco, CA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on June 8, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 26, 2018 (83 FR 29824).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–00493 Filed 1–30–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODPI, Inc.

Notice is hereby given that, on December 10, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODPi, Inc. (''ODPi'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Index Analytics, Baltimore, MD, has been added as a party to this venture.

Also, SAP SE, Walldorf, GERMANY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODPi intends to file additional written notifications disclosing all changes in membership.

On November 23, 2015, ODPi filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 23, 2015 (80 FR 79930).

The last notification was filed with the Department on September 17, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2018 (83 FR 51504).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–00489 Filed 1–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On January 3, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States and the State of Wisconsin* v. *NCR Corp., et al.,* Civil Action No. 10–cv–910.

In 2010, the United States and the State of Wisconsin filed this action under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675. The United States and the State brought claims against P.H. Glatfelter Company (''Glatfelter''), Georgia-Pacific Consumer Products LP (''Georgia-Pacific''), and other defendants for recovery of response costs and natural resource damages, as well as enforcement of an administrative cleanup order issued by the U.S. Environmental Protection Agency (''EPA''), concerning polychlorinated biphenyl contamination in sediment at the Lower Fox River and Green Bay Superfund Site in northeastern Wisconsin (the ''Site''). Most of the original defendants entered into earlier, court-approved settlements with the United States and the State.

The proposed Consent Decree with Glatfelter and Georgia-Pacific would end this litigation on agreed terms and conditions. Glatfelter would pay a total of $20.5 million—with $20 million applied toward EPA's unreimbursed past response costs and $500,000 applied toward natural resource damages—and Glatfelter would pay all future EPA and State costs of overseeing the remaining work at the Site. Glatfelter would dismiss its pending appeal of a separate consent decree that requires a prior settler, NCR Corporation, to finish all dredging and sediment cap installation work at the Site. Glatfelter and Georgia-Pacific also would agree to perform all required

long-term monitoring and cap maintenance work under the new settlement.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Wisconsin* v. *NCR Corp., et al.,* D.J. Ref. No. 90–11–2–1045/3. Interested parties also may request a public meeting in the affected area pursuant to 42 U.S.C. 6973(d). All comments and meeting requests must be submitted no later than thirty (30) days after the publication date of this notice. Comments and meeting requests may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.*

We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $20.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–00444 Filed 1–30–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice To Ensure State Workforce Agencies Are Aware of the Revised Schedule of Remuneration for the Unemployment Compensation for Ex-Servicemembers (UCX) Program That Reflects the Military Pay Increase Effective January 1, 2019

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Each year, the Department of Defense issues a Schedule of Remuneration used by states for UCX purposes. States must use the schedule to determine Federal military wages for UCX ''first claims'' only when the Federal Claims Control Center (FCCC) responds to a request for information indicating that there is no Copy 5 of the Certificate of Release or Discharge from Active Duty (DD Form 214) for an individual under the social security number provided. A response from the FCCC that indicates ''no DD214 on file'' will prompt the state to start the affidavit process and to use the attached schedule to calculate the Federal military wages for an unemployment insurance or UCX monetary determination.

The schedule applies to UCX ''first claims'' filed beginning with the first day of the first week that begins on or after January 1, 2019, pursuant to the UCX program regulations (see 20 CFR 614.12(c)). States must continue to use the 2018 schedule (or other appropriate schedule) for UCX ''first claims'' filed before the effective date of the revised schedule.

Signed:

Molly E. Conway,

Acting Assistant Secretary for Employment and Training, Labor.

ATTACHMENT I—2019 FEDERAL SCHEDULE OF REMUNERATION

[20 CFR 614.12(d)]

Pay grade	Monthly rate	Weekly (7/30th)	Daily (1/30th)
1. *Commissioned Officers:*			
O–10	20,012.85	4,669.67	667.10
O–9	19,875.35	4,637.58	662.51
O–8	19,057.65	4,446.78	635.25
O–7	17,033.76	3,974.54	567.79
O–6	15,059.07	3,513.78	501.97
O–5	12,704.98	2,964.49	423.50
O–4	10,870.51	2,536.45	362.35
O–3	8,561.97	1,997.79	285.40
O–2	6,917.78	1,614.15	230.59
O–1	5,349.97	1,248.33	178.33
2. *Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member or Warrant Officer:*			
O–3 E	10,088.55	2,353.99	336.28
O–2 E	8,233.56	1,921.16	274.45
O–1 E	7,062.97	1,648.03	235.43
3. *Warrant Officer:*			
W–5	11,739.46	2,739.21	391.32
W–4	10,364.92	2,418.48	345.50
W–3	8,858.27	2,066.93	295.28
W–2	7,540.36	1,759.42	251.35
W–1	6,616.34	1,543.81	220.54
4. *Enlisted Personnel:*			
E–9	9,788.31	2,283.94	326.28
E–8	8,062.15	1,881.17	268.74
E–7	7,225.18	1,685.87	240.84
E–6	6,364.47	1,485.04	212.15
E–5	5,378.68	1,255.03	179.29
E–4	4,450.00	1,038.33	148.33
E–3	3,992.51	931.59	133.08

ATTACHMENT I—2019 FEDERAL SCHEDULE OF REMUNERATION—Continued

[20 CFR 614.12(d)]

Pay grade	Monthly rate	Weekly (7/30th)	Daily (1/30th)
E–2	3,826.69	892.89	127.56
E–1	3,431.45	800.67	114.38

The Federal Schedule includes columns reflecting derived weekly and daily rates. This revised Federal Schedule of Remuneration is effective for UCX ''first claims'' filed beginning with the first day of the first week which begins on or after January 1, 2019, pursuant to 20 CFR 614.12(c).

[FR Doc. 2019–00443 Filed 1–30–19; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; H–2B Foreign Labor Certification Program

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training (ETA) sponsored information collection request (ICR) revision titled, ''H–2B Foreign Labor Certification Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 4, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201812-1205-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the H–2B Foreign Labor Certification Program information collection. The information collection is required by Sections 101(a)(15)(H)(ii)(b) and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1011(a)(15)(H)(ii)(b) and 1184(c)), as well as 8 CFR 214.2(h)(6), 20 CFR 655, Subpart A, and 29 CFR 503. The H–2B program enables employers to bring nonimmigrant foreign workers to the United States to perform non-agricultural work of a temporary nature. *See* 8 U.S.C. 1101(a)(15)(H)(ii)(b). The Department of Homeland Security (DHS) consults with DOL with respect to the H–2B program, and DOL provides advice on whether U.S. workers capable of performing the temporary services or labor are available. *See* 8 U.S.C. 1184(c)(1), INA Section 214(c)(1) (providing for DHS to consult with ''appropriate agencies of the Government''). Under DHS regulations, an H–2B petition for temporary employment must be accompanied by an approved temporary labor certification from DOL, which serves as DOL's consultative advice to DHS regarding whether a qualified U.S. worker is available to fill the petitioning H–2B employer's job opportunity and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. *See* 8 CFR 214.2(h)(6)(iii)(A), (iv)(A). DHS and DOL jointly promulgated regulations establishing the processes by which an employer must obtain a prevailing wage and temporary labor certification from DOL, and the rights and obligations of workers and employers. *See* 20 CFR 655, Subpart A; 29 CFR 503; 8 CFR 214.2(h)(6)(iii)-(iv).

This ICR, OMB Control No. 1205–0509, includes the collection of information related to the use of employer-provided surveys for determining prevailing wages and the temporary labor certification process in the H–2B program. The Form ETA–9165, *Employer-Provided Survey Attestations to Accompany H–2B Prevailing Wage Determination Request Based on a Non-OES Survey,* is used to collect information that permits ETA to determine whether an employer-provided survey can be used to establish a prevailing wage in the occupational classification in lieu of a prevailing wage determined using the Bureau of Labor Statistics Occupational Employment Statistics (OES) program. The information contained in the Form ETA–9142B, *H–2B Application for Temporary Employment Certification,* and corresponding appendices serve as the basis for the Secretary's determination that qualified U.S. workers are not available to perform the services or labor needed by the employer and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H–2B workers. This determination is required before a petition can be approved by DHS. Employers use *Appendix B* of the Form ETA–9142B to attest that they will comply with all of the terms, conditions, and obligations of the H–2B program.

ETA is seeking comments on proposed revisions to the Form ETA–9142B, *H–2B Application for Temporary Employment Certification;* Form ETA–9142B, *Appendix B;* Form ETA–9165, *Employer-Provided Survey Attestations to Accompany H–2B Prevailing Wage Determination Request Based on a Non-OES Survey;* and the instructions accompanying those forms. The proposed revisions will better align information collection requirements with DOL's current regulatory framework, provide greater clarity to employers on regulatory requirements, standardize and streamline information

collection to reduce employer time and burden preparing applications, and promote greater efficiency and transparency in ETA's review and issuance of labor certification decisions under the H–2B program.

ETA is also seeking comments on the Form ETA–9155, *H–2B Registration,* which allows ETA to determine whether the nature and duration of the employer's need for H–2B workers is temporary. Where ETA has not operationalized the registration process through a separate notice in the **Federal Register**, H–2B applications are exempt from the registration requirements under 20 CFR 655.11, and the adjudication of the employer's temporary need will continue to occur based on information collected on the Form ETA–9142B.

ETA is also seeking comments on its proposed implementation of three new appendices to the Form ETA–9142B. The proposed *Appendix A* would require an employer to use a standard format to disclose additional place(s) of employment and, if applicable, multiple wage offers for the job opportunity. Proposed *Appendix C* would require an employer to use a standard format to disclose the identity and location of all foreign labor recruiters. In order to recruit prospective foreign workers for the job opportunities offered by the employer under the Form ETA–9142B, the employer, and its attorney or agent (as applicable), must provide the identity and location of all persons and entities hired by or working for the recruiter or agent and any of the agent(s) or employee(s) of those person and entities. 20 CFR 655.9(b). Collection of this information in a standard format will also permit ETA more effectively to comply with 20 CFR 655.9(c), which requires the maintenance of a publicly available list of foreign labor recruiters and the location(s) in which they are operating. Proposed *Appendix D* would require an employer filing as a job contractor to disclose the name and contact information of its employer-client, as required by 20 CFR 655.19(d)(1). These appendices will establish a more efficient and standardized method of collecting information currently submitted by employers to the Department using a variety of paper-based documents that are separately attached to the Form ETA–9142B.

To promote greater efficiency in issuing temporary labor certification decisions and minimize delays associated with employers filing H–2B petitions with DHS, ETA is seeking to eliminate the issuance of paper-based labor certification decisions by proposing the creation of a one-page Form ETA–9142B, *Final Determination: H–2B Temporary Labor Certification Approval,* which will be issued electronically to employers granted temporary labor certification by DOL. In circumstances where the employer or, if applicable, its authorized attorney or agent, is not able to receive the temporary labor certification documents electronically, ETA will send the certification documents printed on standard paper in a manner that ensures overnight delivery.

Finally, ETA is requesting a three-year extension, without change, of the Form ETA–9142B, *Seafood Industry Attestation.* Employers in the seafood industry who wish to stagger the entry of H–2B workers into the United States between 90 and 120 days after the certified start date of need will need to complete the Form ETA–9142B, *Seafood Industry Attestation,* and provide a copy to each H–2B worker to present, upon request by DHS, when seeking entry into the United States.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0509. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 7, 2018 (83 FR 45469).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0509. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: H–2B Foreign Labor Certification Program.

OMB Control Number: 1205–0509.

Affected Public: Individuals or Households; Private Sector (businesses or other for-profit institutions); Federal Government; and State, Local and Tribal Governments.

Total Estimated Number of Respondents: 85,057.

Annual Frequency: On Occasion.

Total Estimated Number of Responses: 286,978.

Total Estimated Annual Time Burden: 80,748 hours.

Total Estimated Annual Other Costs Burden: $931,287.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: December 21, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2019–00441 Filed 1–30–19; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Performance Partnership Pilots for Disconnected Youth Program National Evaluation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) revision titled, ''Performance Partnership Pilots for Disconnected Youth Program National Evaluation,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork

Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 4, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201802-1290-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Performance Partnership Pilots for Disconnected Youth Program (P3) National Evaluation information collection. More specifically, this ICR seeks clearance for four data collection activities conducted as part of the evaluation's implementation and systems analyses: (1) Site visit interviews; (2) focus group discussions with P3 youth participants; (3) a survey of partner managers; and (4) a survey of partner service providers. This information collection has been classified as a revision, because the DOL request to add one site visit to each of the six Cohort ⅔ pilots as well as visits to each of six exemplar pilots. In addition, phone interviews to each Cohort 1 program director were also added to the evaluation plan. Consolidated Appropriations Act of 2014 section 526 authorizes this information collection. *See* Public Law 113–76.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0013. The current approval is scheduled to expire on April 30, 2020; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 19, 2016 (81 FR 31664).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0013. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OS.

Title of Collection: Performance Partnership Pilots for Disconnected Youth Program National Evaluation.

OMB Control Number: 1219–0013.

Affected Public: Private Sector—businesses or other for-profits, not-for-profit institutions; Individuals or Households; State, Local, and Tribal governments.

Total Estimated Number of Respondents: 371.

Total Estimated Number of Responses: 371.

Total Estimated Annual Time Burden: 294 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2019–00442 Filed 1–30–19; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''International Training Application.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before April 1, 2019.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington,

DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, at 202–691–7763 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS is one of the largest labor statistics organizations in the world and has provided international training since 1945. Each year, the BLS Division of International Technical Cooperation (DITC) conducts seminars of 1 to 2 weeks duration at its training facilities in Washington, DC In addition to the annual international seminars, DITC provides technical assistance upon request and organizes visits to the BLS for many international visitors each year. The seminars bring together statisticians, economists, analysts, and other data producers and users from countries all over the world. Each seminar is designed to strengthen the participants' ability to collect and analyze economic and labor statistics.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed extension of the International Training Application. Continuing the existing collection will allow the BLS to continue to conduct international seminars. No questions have been added or deleted on the form since the last Office of Management and Budget approval in 2016.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Type of Review: Extension.
Agency: Bureau of Labor Statistics.
Title: International Training Application.
OMB Number: 1220–0179.
Affected Public: Individuals or households.
Total Respondents: 100.
Frequency: On occasion.
Total Responses: 100.
Average Time per Response: 20 minutes.
Estimated Total Burden Hours: 34 hours.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on December 27, 2018.

Eric Molina,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2019–00438 Filed 1–30–19; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE

[NCMNPS Docket No. 04–2019–01]

Notice of Public Hearings

AGENCY: National Commission on Military, National, and Public Service.

ACTION: Announcement of Commission public hearings.

SUMMARY: The National Commission on Military, National, and Public Service is publishing this notice to announce the following public hearings will take place.

DATES: The Commission will host fourteen public hearings in 2019. The breakdown is as follows:

- Two hearings on Universal Service on February 21, 2019, at American University, Washington College of Law Claudio Grossman Hall, 4300 Nebraska Ave. NW, Washington, DC 20016.
- Two hearings on National Service on March 28, 2019, at the Annenberg Presidential Conference Center, 1002 George Bush Drive West, College Station, TX 77843.
- Four hearings on Selective Service on April 24 and 25, 2019, at Gallaudet University Peikoff Alumni House, 800 Florida Ave. NE, Washington, DC 20002.
- Two hearings on Public Service on May 15, 2019, at the Partnership for Public Service, 1100 New York Ave. NW, Suite 200 East, Washington, DC 20005.
- Two hearings on Military Service on May 16, 2019, at the Partnership for Public Service, 1100 New York Ave. NW, Suite 200 East, Washington, DC 20005.
- Two hearings on Creating an Expectation of Service on June 20, 2019, at the Franklin D. Roosevelt Library, 4079 Albany Post Rd., Hyde Park, NY 12538.

ADDRESSES: As indicated above, the hearings will be held at a variety of locations. They will also be livestreamed. For additional details, please visit *https://inspire2serve.gov/content/events.*

FOR FURTHER INFORMATION CONTACT: The hearings are open to the public; however advance notice of attendance is requested. Registration for each hearing will be available three weeks prior to date of hearing. For more information, please visit the Commission's website at *www.inspire2serve.gov* or contact Cristina Flores, at (703) 571–3743 or by email at *info@inspire2serve.gov.*

SUPPLEMENTARY INFORMATION: The bipartisan, 11-member Commission was created by Congress in the National Defense Authorization Act for Fiscal Year 2017 to conduct a review of the military selective service process and to consider methods to increase participation in military, national, and public service in order to address national security and other public service needs of the nation. The Commission seeks to continue the national conversation on the value and importance of service as it develops recommendations for Congress, the President, and the American people. The Commission will issue those recommendations in a final report by March 2020. In 2019, the Commission will hold a series of public hearings that will include testimony from experts on various issues within the Commission's mandate. The Commission website will be updated to include background information and written testimony from hearing panelists. These public hearings will help inform and vet policy alternatives that the Commission may consider as it generates its final report. For each hearing, the Commission will release a staff memo two weeks in advance outlining the policy options under consideration. The Commission invites you to visit *www.inspire2serve.gov* to review and share your feedback on these memos. Time will be reserved at the end of each

public hearing for audience members to provide comments directly to the Commissioners regarding the topic discussed in the public hearing. The event will be livestreamed and open to the press.

Dated: January 17, 2019.

Kent Abernathy,

Executive Director.

[FR Doc. 2019–00095 Filed 1–30–19; 8:45 am]

BILLING CODE 3610–YE–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: IMLS Native American Library Basic Grant Program—Final Performance Report Form

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB Review, Comment Request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning the three year approval of the forms necessary to report on grant or cooperative agreement activities on an interim and final basis for all IMLS grant programs.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted to the office listed in the CONTACT section below on or before February 28, 2019.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Webb, Director of Grant Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718 Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

Current Actions: Native American Basic Grants support existing library operations and maintain core library services, particularly as they relate to the following goals in the Museum and Library Services Act (20 U.S.C. 9141). Indian tribes are eligible to apply for funding under the Native American Library Services Enhancement Grant program. Entities such as libraries, schools, tribal colleges, or departments of education are not eligible applicants, although they may be involved in the administration of this program and their staff may serve as project directors in partnership with an eligible applicant. For purposes of funding under this program, ''Indian tribe'' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. A list of eligible entities is available from the Bureau of Indian Affairs.

To be eligible for this program you must be able to document an existing library that meets, at a minimum, three basic criteria: (1) Regularly scheduled hours, (2) staff, and (3) materials available for library users.

This action is to create the form and instructions for the Final Performance Report Form for the grant program for the next three years.

Agency: Institute of Museum and Library Services.

Title: IMLS Native American Library Basic Grant Program—Final Performance Report Form.

OMB Number: 3137–0098.

Frequency: Once a year.

Affected Public: Native American Library staff.

Number of Respondents: 220.

Estimated Average Burden per Response: 2 hours.

Estimated Total Annual Burden: 440.

Total Annualized capital/startup costs: n/a.

Total Annual costs: $12,262.80.

Dated: January 28, 2019.

Kim A. Miller,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2019–00583 Filed 1–30–19; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of December 31, 2018, January 7, 14, 21, 28, February 4, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 31, 2018

There are no meetings scheduled for the week of December 31, 2018.

Week of January 7, 2019—Tentative

There are no meetings scheduled for the week of January 7, 2019.

Week of January 14, 2019—Tentative

There are no meetings scheduled for the week of January 14, 2019.

Week of January 21, 2019—Tentative

Thursday, January 24, 2019

10:00 a.m.—Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting), (Contact: Donna Williams: 301–415–1322)

Week of January 28, 2019—Tentative

Monday, January 28, 2019

1:30 p.m.—NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Thursday, January 31, 2019

9:00 a.m.—Transformation at the NRC: Innovation (Public Meeting), (Contact: June Cai: 301–415–1771)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 4, 2019—Tentative

There are no meetings scheduled for the week of February 4, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 28th day of December, 2018.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00593 Filed 1–29–19; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0063]

Information Collection: Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities, Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities, Policy Statement.''

DATES: Submit comments by March 4, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs 3150–0163, Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0063 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0063.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML18339A012.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities, Policy Statement.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment

period on this information collection on September 26, 2018, 83 FR 48658.

1. *The title of the information collection:* Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities, Policy Statement.

2. *OMB approval number:* 3150–0163.

3. *Type of submission:* Revision.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion, when a State or federally recognized Indian Tribe wishes to observe NRC inspections or perform inspections for the NRC or when a State or federally recognized Indian Tribe wishes to negotiate an agreement to observe or perform inspections. States with an instrument of cooperation or a State Resident Engineer have both regular reporting and occasion-specific reporting.

6. *Who will be required or asked to respond:* States and federally recognized Tribes interested in observing or performing inspections.

7. *The estimated number of annual responses:* 209.

8. *The estimated number of annual respondents:* 33.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 1,309 hours.

10. *Abstract:* States and federally recognized Indian Tribes are involved and interested in monitoring the safety status of nuclear power plants and other nuclear production and utilization facilities. This involvement is, in part, in response to the States' and Tribes' public health and safety responsibilities and, in part, in response to their citizens' desire to become more knowledgeable about the safety of nuclear power plants and other nuclear production and utilization facilities. States and Tribes have identified NRC inspections as one possible source of knowledge for their personnel regarding NRC licensee activities, and the NRC, through the policy statement, ''Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities'' (57 FR 6462; February 25, 1992), has been amenable to accommodating States' and Tribes' needs in this regard. The NRC uses the information collected under this information collection requirement to allow States and federally recognized Indian Tribes to participate in or observe inspections at NRC-licensed facilities. The types of information collected include written requests identifying specific inspections States and Tribes wish to observe; identification-related information required for site access to NRC-licensed facilities; training and qualifications of State and Tribal personnel participating in inspections; information required to define inspection roles for States and Tribes; and information to coordinate NRC and State and Tribal inspections.

Dated at Rockville, Maryland, this 16th day of January 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–00380 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0056]

Digital Instrumentation and Controls—Interim Staff Guidance–06, Revision 2, ''Licensing Process''

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Interim Staff Guidance (ISG) Digital Instrumentation and Controls (DI&C)—ISG–06, Revision 2, ''Licensing Process.'' This ISG defines the licensing process used to support the review of license amendment requests (LARs) associated with safety-related D&IC equipment modifications in operating plants and in new plants once they become operational. This ISG provides guidance for activities performed before a LAR is submitted and for activities performed during LAR review. The NRC staff uses the process described in this ISG to evaluate compliance with NRC regulations.

DATES: This guidance is available on January 31, 2019.

ADDRESSES: Please refer to Docket ID NRC–2018–0056 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0056. Address questions about Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Digital Instrumentation and Controls-Interim Staff Guidance-06, Rev. 2, is available in ADAMS under Accession No. ML18269A259.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Joseph Golla, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1002, email: *Joe.Golla@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRC published a notice of the availability of ISG–06, Rev. 2, in the **Federal Register** (83 FR 38731) on August 7, 2018, for a 30-day public comment period. The public comment period closed on September 6, 2018. Public comments on ISG–06, Rev. 2, and the staff responses to the public comments are available under ADAMS Accession No. ML18290A623.

This ISG provides guidance for the NRC staff's review of LARs supporting installation of Digital I&C equipment in accordance with licensing processes defined in the NRC's office instruction LIC–101, ''License Amendment Review Procedures.'' This ISG identifies information the NRC staff should review for Digital I&C equipment. This ISG provides guidance on when that information should be reviewed.

This ISG is designed to be used with the NRC's topical report review and approval process defined in the NRC's Office of Nuclear Reactor Regulation office instruction LIC–500, ''Topical Report Process.'' Where a licensee references an NRC-approved topical report, the NRC staff should be able to, where appropriate, limit its review to assessing whether the application of the Digital I&C modification falls within the envelope of the topical report approval. This ISG was developed based upon, and is designed to work in concert with, established guidance. As a result, this ISG references other guidance documents for review criteria.

The NRC staff performs evaluations of proposed Digital I&C equipment to ensure equipment will perform required functions. These evaluations use the guidance in the Standard Review Plan, Chapter 7, and other associated guidance. When a licensee seeks to amend its license, the application for amendment must fully describe the changes desired. The application should describe the safety functions of identified in the Final Safety Analysis Report, as updated, and the Digital I&C equipment that performs each function. Additionally, licensees identify those parts of the licensing basis being updated as a result of the proposed change.

The Standard Review Plan, Appendix 7.0–A, and Branch Technical Position 7–14, guide the NRC staff in performing reviews of digital systems in support of safety evaluations. For reviews using the Alternate Process as defined in the ISG, the ISG provides additional guidance for performing early stage reviews of digital safety-related systems in support of safety evaluations. The NRC staff may review the system design and development process to support a determination that the design meets regulatory requirements and that in safety-related applications in nuclear power plants, the process is of sufficiently high quality to produce systems and software suitable for use. The NRC staff review processes include activities for evaluating documentation of plans and processes that are used to support system development activities and their outcomes.

II. Backfitting and Issue Finality

The NRC is issuing a revision to interim guidance for the NRC staff regarding its review of requests from nuclear power plant licensees for license amendments involving installation of Digital I&C equipment. Issuance of the revised ISG does not constitute backfitting as defined in title 10 of the Code of Federal Regulations (10 CFR) section 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The ISG positions do not constitute backfitting, inasmuch as the ISG is guidance directed to the NRC staff with respect to its regulatory responsibilities.*

The ISG provides interim guidance to the staff on how to review certain requests for license amendments. Changes in guidance intended for use by only the staff are not matters that constitute backfitting as that term is defined in 10 CFR 50.109 or involve the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality—with certain exceptions discussed in this section—do not apply to current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, the subject of either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions of 10 CFR part 52 were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever a 10 CFR part 50 operating license applicant references a construction permit or a 10 CFR part 52 combined license applicant references a license (*e.g.,* an early site permit) and/or an NRC regulatory approval (*e.g.,* a design certification rule) for which specified issue finality provisions apply.

The NRC staff does not currently intend to impose the positions represented in this final SRP section in a manner that constitutes backfitting or is inconsistent with any issue finality provision of 10 CFR part 52. If in the future the NRC staff seeks to impose positions stated in this SRP section in a manner that would constitute backfitting or be inconsistent with these issue finality provisions, the NRC staff must make the showing as set forth in the Backfit Rule or address the regulatory criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

3. *The NRC staff has no intention to impose the ISG positions on existing nuclear power plant licensees either now or in the future (absent a voluntary request for a change from the licensee).*

The staff does not intend to impose or apply the positions described in the ISG to existing (already issued) licenses (*e.g.,* operating licenses and combined licenses). Hence, the issuance of this ISG—even if considered guidance subject to the Backit Rule or the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the ISG on holders of already issued licenses in a manner that would constitute backfitting or does not provide issue finality as described in the applicable issue finality provision, then the staff must make a showing as set forth in the Backfit Rule or address the criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

III. Congressional Review Act

This Interim Staff Guidance document is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 2nd day of January 2019.

For the Nuclear Regulatory Commission.

Eric J. Benner,

Director, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–00374 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Week of January 28, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of January 28, 2019

Thursday, January 31, 2019

1:25 p.m. Affirmation Session (Public Meeting) (Tentative)
Powertech (USA), Inc. (Dewey-Burdock in Situ Uranium Recovery Facility), Response to Remand from D.C. Circuit in Oglala Sioux Tribe v. NRC (Tentative)

ADDITIONAL INFORMATION: By a vote of 5–0 on January 29, 2019, the Commission determined pursuant to U.S.C. 552b(e) and '9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on January 31, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you

need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of January, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00804 Filed 1–29–19; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 14, 21, 28, February 4, 11, 18, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 14, 2019

There are no meetings scheduled for the week of January 14, 2019.

Week of January 21, 2019—Tentative

Thursday, January 24, 2019

10:00 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting), (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 28, 2019—Tentative

Monday, January 28, 2019

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Thursday, January 31, 2019

9:00 a.m. Transformation at the NRC: Innovation (Public Meeting), (Contact: June Cai: 301–415–1771)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 4, 2019—Tentative

There are no meetings scheduled for the week of February 4, 2019.

Week of February 11, 2019—Tentative

There are no meetings scheduled for the week of February 11, 2019.

Week of February 18, 2019—Tentative

There are no meetings scheduled for the week of February 18, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of January, 2019.

For the Nuclear Regulatory Commission.

/RA/

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00595 Filed 1–29–19; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4, Passive Core Cooling System (PXS) Gutter Drain Line Vents

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 149 and 148 to Combined Licenses (COLs), NPF–91 and NPF–92. The COLs were issued to Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on December 18, 2018.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-*

rm/adams.html. To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced. The request for the amendment and exemption was submitted by letter dated August 27, 2018 (ADAMS Accession No. ML18239A375).

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Paul Kallan, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2809; email: *Paul.Kallan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting exemptions from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 149 and 148 to COLs, NPF–91 and NPF–92, to SNC. The exemptions are required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow SNC to depart from Tier 1 information. With the requested amendment, SNC requires changes to the UFSAR in the form of departures from the incorporated plant-specific DCD Tier 2 information and related changes to the VEGP Units 3 and 4 COL and COL Appendix C (and corresponding plant-specific DCD Tier 1) information. Specifically, the requested amendment revises the COL and licensing basis documents to add vent lines to the piping between the passive core cooling system (PXS) collection boxes and in-containment refueling water storage tank (IRWST) to remove entrained air and improve the drain line flow rates.

Part of the justification for granting the exemptions was provided by the review of the amendments. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemptions and issued the amendments concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemptions met all applicable regulatory criteria set forth in sections 50.12, 10 CFR 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendments were found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML18341A086.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML18341A080 and ML18341A081, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML18341A082 and ML18341A084, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated August 27, 2018, SNC requested from the Commission an exemption from the provisions of 10 CFR part 52, appendix D, section III.B, as part of license amendment request (LAR) 18–022, ''Passive Core Cooling System (PXS) Gutter Drain Line Vents.''

For the reasons set forth in Section 3.1, ''Evaluation of Exemption,'' of the NRC staff's safety evaluation, which can be found in ADAMS under Accession No. ML18341A086, the Commission finds that:

A. The exemption is authorized by law;

B. The exemption presents no undue risk to public health and safety;

C. The exemption is consistent with the common defense and security;

D. Special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. The special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. The exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the licensee's request dated August 27, 2018. This exemption is related to, and necessary for the granting of License Amendment Nos. 149 [(Unit 3) and 148 (Unit 4)], which is being issued concurrently with this exemption.

3. As explained in Section 5.0, ''Environmental Consideration,'' of the NRC staff's safety evaluation (ADAMS Accession No. ML18341A086), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated August 27, 2018, SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COL Nos. NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 9, 2018 (83 FR 50691). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on

August 27, 2018. The exemptions and amendments were issued on December 18, 2018, as part of a combined package to SNC (ADAMS Package Accession No. ML18341A078).

Dated at Rockville, Maryland, this 25th day of January 2019.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 2, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2019–00391 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0287; NRC–2019–0020]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice; extension of comment period.

SUMMARY: Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from December 15, 2018, to December 28, 2018. The last biweekly notice was published on January 2, 2019 (84 FR 20). The comment period for the document published in the **Federal Register** on January 2, 2019 (84 FR 20), was originally scheduled to close on February 1, 2019. Because this document was posted to *Regulations.gov* on January 18, 2019, the NRC has decided to extend the public comment period to allow more time for stakeholders to develop and submit their comments. Due to the Federal government shutdown, there was no biweekly publication on January 15, 2019.

DATES: Comments must be filed by March 4, 2019. A request for a hearing must be filed by April 1, 2019. The due date for comments requested in the document published on January 2, 2019 (84 FR 20) is extended. Comments should be filed no later than March 4, 2019. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0020. Address questions about Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–5411, *Shirley.Rohrer@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0020, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0020.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0020, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: November 1, 2018. A publicly-available version is in ADAMS under Accession No. ML18318A320.

Description of amendment request: The amendments would revise the dose consequences for the facility, as described in the Updated Final Safety Analysis Report, to provide fission gas gap release fractions for high-burnup fuel rods that exceed the linear heat generation rate limit detailed in Regulatory Guide (RG) 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors'' (ADAMS Accession No. ML003716792), Table 3, Footnote 11. The amendments would allow a higher bounding rod power history and the removal of a restriction on the number of rods per assembly that can exceed the rod power burnup criteria of Footnote 11 in RG 1.183.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves using gap release fractions for high-burnup fuel rods (*i.e.,* greater than 54 GWD/MTU [gigawatt days per metric ton of uranium]) that exceed the 6.3 kW/ft [kilowatt per foot] linear heat generation rate (LHGR) limit detailed in Table 3, Footnote 11 of RG 1.183. Increased gap release fractions were determined and accounted for in the dose analysis for ONS [Oconee Nuclear Station]. The dose consequences reported in the ONS Updated Final Safety Analysis Report (UFSAR) were reanalyzed for fuel handling accidents only. Dose consequences were not reanalyzed for other non-fuel-handling accidents since no fuel rod that is predicted to enter departure from nucleate boiling (DNB) will be permitted to operate beyond the limits of RG 1.183, Table 3, Footnote 11. The current NRC requirements, as described in 10 CFR 50.67, specifies *[sic]* dose acceptance criteria in terms of Total Effective Dose Equivalent (TEDE). The revised dose consequence analyses for the fuel handling events at ONS meet the applicable TEDE dose acceptance criteria (specified also in RG 1.183).

The changes proposed do not affect the precursors for fuel handling accidents analyzed in Chapter 15 of the ONS UFSAR. The probability remains unchanged since the accident analyses performed and discussed in the basis for the UFSAR changes involve no change to a system, structure or component that affects initiating events for any UFSAR Chapter 15 accident evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

The proposed change involves using gap release fractions for high-burnup fuel rods (*i.e.,* greater than 54 GWD/MTU) that exceed the 6.3 kW/ft LHGR limit detailed in Table 3, Footnote 11 of RG 1.183. Increased gap release fractions were determined for certain isotopes, and were accounted for in the dose analysis for ONS. The dose consequences reported in the ONS UFSAR were reanalyzed for fuel handling accidents only. Dose consequences were not reanalyzed for other non-fuel-handling accidents since no fuel rod that is predicted to enter departure from nucleate boiling (DNB) will be permitted to operate beyond the limits of RG 1.183, Table 3, Footnote 11.

The proposed change does not involve the addition or modification of any plant equipment. The proposed change has the potential to affect future core designs for ONS. However, the impact will not be beyond the standard function capabilities of the equipment. The proposed change involves using gap release fractions that would allow high-burnup fuel rods (*i.e.,* greater than 54 GWD/MTU) to exceed the 6.3 kW/ft LHGR limit detailed in Table 3, Footnote 11 of RG 1.183. Accounting for these new gap release fractions in the dose analysis for ONS does not create the possibility of a new accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed change involves using gap release fractions for high-burnup fuel rods (*i.e.,* greater than 54 GWD/MTU) that exceed the 6.3 kW/ft LHGR limit detailed in Table 3, Footnote 11 of RG 1.183. Increased gap release fractions were determined for certain isotopes, and were accounted for in the dose analysis for ONS. The dose consequences reported in the ONS UFSAR were reanalyzed for fuel handling accidents only. Dose consequences were not reanalyzed for other non-fuel-handling accidents since no fuel rod that is predicted to enter departure from nucleate boiling (DNB) will be permitted to operate beyond the limits of RG 1.183, Table 3, Footnote 11.

The proposed change has the potential for an increased postulated accident dose at ONS. However, the analysis demonstrates that the resultant doses are within the appropriate acceptance criteria. The margin of safety, as defined by 10 CFR 50.67 and Regulatory Guide 1.183, has been maintained. Furthermore, the assumptions and input used in the gap release and dose consequences calculations are conservative. These conservative assumptions ensure that the radiation doses calculated pursuant to Regulatory Guide 1.183 and cited in this LAR are the upper bounds to radiological consequences of the fuel handling accidents analyzed. The analysis shows that with increased gap release fractions accounted for in the dose consequences calculations there is margin between the offsite radiation doses calculated and the dose limits of 10 CFR 50.67 and acceptance criteria of Regulatory Guide 1.183. The proposed change will not degrade the plant protective boundaries, will not cause a release of fission products to the public, and will not degrade the performance of any structures, systems or components important to safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kate Nolan, Deputy General Counsel, Duke Energy Carolinas, 550 South Tryon Street, Charlotte, NC 28202.

NRC Branch Chief: Michael T. Markley.

Duke Energy Progress, LLC, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: October 18, 2018. A publicly-available version is in ADAMS under Accession No. ML18291A628.

Description of amendment request: The proposed amendments would revise the allowable value associated with Function 1.b (*i.e.,* 4.16 kiloVolt Emergency Bus Undervoltage (Loss of Voltage)—Time Delay) of Table 3.3.8.1–1, ''Loss of Power Instrumentation,'' in Technical Specification 3.3.8.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed). The proposed change revises the Allowable Value for the Time Delay Loss of Voltage relays to resolve a design vulnerability potentially impacting the Emergency Diesel Generator (EDG) output

breaker logic; thereby ensuring reliability of the onsite AC electrical sources. Therefore, the proposed change does not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. Further, the proposed change does not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures.

Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the Allowable Value for the Time Delay Loss of Voltage relays. It does not require any modification to the plant and it does not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. The proposed change will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis.

Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the Allowable Value for the Time Delay Loss of Voltage relays to resolve a design vulnerability potentially impacting the EDG output breaker logic; thereby ensuring reliability of the onsite AC electrical sources. It does not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions or the safety limits that would adversely affect plant safety as a result of the proposed change. Margins of safety are unaffected by the proposed change and the applicable requirements of 10 CFR 50.36(c)(3) and 10 CFR 50, Appendix A will continue to be met.

Therefore, the proposed amendments do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, 550 South Tryon Street, M/C DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2 (PINGP), Goodhue County, Minnesota

Date of amendment request: October 2, 2018, as supplemented by letter dated December 4, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18275A370 and ML18338A431, respectively.

Description of amendment request: The amendments would revise the PINGP licensing basis regarding the safety classification of certain fuel handling equipment. The amendments would revise the PINGP Updated Safety Analysis Report (USAR) regarding specific fuel handling equipment to relax the PINGP-specific classification scheme to allow them to be classified as quality assurance (QA) Type III, non-safety related.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The fuel handling accident is the only previously evaluated accident for the fuel handling equipment being addressed. The proposed amendment does not result in a significant increase in the probability of an accident because the change in definition of substantial amount of radioactivity as applied to determining the safety classification of the specified fuel handling equipment will not alter the results of fuel handling accidents analyzed in Chapter 14 of the PINGP Updated Safety Analysis Report.

[Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.]

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed reclassification of specified refueling handling equipment does not alter existing system interactions or introduce new system interactions. The change will not affect how the specified equipment is operated or maintained. Neither will the change affect the QA requirements for equipment that is required to maintain integrity for seismic category II/I requirements, so no new potential accidents need be postulated as a result of the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated in the USAR.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment revises the current licensing basis to apply a criterion for designating equipment as safety-related that is consistent with the definition of ''Comparable Off-site Exposures'' in [American Nuclear Standards Institute/American Nuclear Society (ANSl/ANS)-58.14–1993] for the purposes of equipment quality assurance type. The proposed amendment is consistent with existing regulatory guidance. The proposed amendment does not reduce compliance with [Atomic Energy Commission (AEC) General Design Criteria (GDC) 1]. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: November 20, 2018. A publicly-available version is in ADAMS under Accession No. ML18324A823.

Description of amendment request: The requested amendment proposes to depart from information in the Updated Final Safety Analysis Report (UFSAR) (which includes the plant-specific Design Control Document Tier 2 information) and involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated Combined License (COL) Appendix C information. Specifically, the requested amendment proposes changes that are editorial in nature to promote consistency with the licensing basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed consistency and editorial changes to Tier 2 information in the UFSAR, COL Appendix C (and associated plant-specific Tier 1) information, and COL Appendix A Technical Specifications do not

involve a technical change (*e.g.,* there is no design parameter or requirement, calculation, analysis, function or qualification change). No structure, system, or component (SSC) design or function would be affected. No design or safety analysis would be affected. The proposed changes do not affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radioactive releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed consistency and editorial changes to Tier 2 information in the UFSAR, COL Appendix C (and associated plant-specific Tier 1) information, and COL Appendix A Technical Specifications do not change the design of safety-related SSCs. The proposed changes do not affect plant electrical systems, and does not affect the design function, support, design, or operation of mechanical and fluid systems. The proposed changes do not result in a new failure mechanism or introduce any new accident precursors. No design function described in the UFSAR is affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed consistency and editorial changes to Tier 2 information in the UFSAR, COL Appendix C (and associated plant-specific Tier 1) information, and COL Appendix A Technical Specifications do not involve any change to the design as described in the COL. There would be no change to an existing design basis, design function, regulatory criterion, or analyses. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer L. Dixon-Herrity.

IV. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station (CPS), Unit No.1, DeWitt County, Illinois

Date of amendment request: September 17, 2018. A publicly-available version is in ADAMS under Accession No. ML18260A307.

Description of amendment request: The amendment would recapture low-power testing time to extend the full-power operating license (FPOL) to expire on April 17, 2027, instead of the current expiration date of September 29, 2026.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because it does not involve a change to the design configuration or operation of the facility. The proposed change does not affect the source term, containment isolation or radiological release assumptions used in evaluating the radiological consequences of an accident previously analyzed in the CPS Updated Safety Analysis Report (USAR).

CPS was designed and constructed to ensure at least a 40-year service life. Design features provide for inspection of structures, systems, and components during this service life. Surveillance, inspection, and maintenance practices, which have been implemented in accordance with the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code and the CPS Technical Specifications, provide assurance that any degradation in plant safety-related equipment will be identified and corrected to ensure continued safe operation of the unit throughout the duration of the facility operating license.

The low-power testing recapture period requested by this amendment is for 6.5 months. This time period is insignificant from an aging effects perspective, particularly when considered in conjunction with the surveillance, inspection, and maintenance programs described above.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed amendment would revise the expiration date of the facility operating license to base it upon the issuance date of the FPOL and not the issuance date of the low-power testing license. The proposed change does not involve physical alteration of plant systems, structures, or components, or changes in parameters governing the manner in which the plant is operated and maintained.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment would revise the expiration date of the facility operating license to base it upon the issuance date of the FPOL and not the issuance date of the low-power testing license. No physical changes are being made to the design features or operation of the facility.

Margin of safety is associated with confidence in the ability of the fission produce barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the radiological dose to the public and control room operators in the event of an accident. The proposed amendment to the facility operating license has no impact on the margin of safety and robustness provided in the design and construction of the facility. In addition, the proposed amendment will not relax any of the criteria used to establish safety limits, nor will the proposed amendment relax safety system settings or limiting conditions for operation as defined in the Technical Specifications.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

V. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: October 20, 2017, as supplemented by letters dated June 15, July 20, and September 21, 2018.

Brief description of amendments: The amendments revise the Updated Final Safety Analysis Report (UFSAR) to provide off-nominal success criteria for maintaining the reactor in a safe shutdown condition when using the Standby Shutdown Facility (SSF) to mitigate a Turbine Building Flood occurring when an Oconee Unit is not at nominal full power conditions. The amendments also revise the UFSAR to allow the use of the Main Steam Atmospheric Dump Valves, when available, to enhance SSF mitigation capabilities.

Date of issuance: December 17, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 410, 412, and 411. A publicly-available version is in ADAMS under Accession No. ML18311A134; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–38, DPR–47 and DPR–55: Amendments revised the UFSAR.

Date of initial notice in **Federal Register***:* July 3, 2018 (83 FR 31193), as corrected by a notice published on July 10, 2018 (83 FR 31979), that changed the period for filing petitions to account for a Federal holiday. The supplemental letters dated June 15, July 20, and September 21, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 17, 2018.

No significant hazards consideration comments received: No.

Entergy Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1 (RBS), West Feliciana Parish, Louisiana

Date of amendment request: January 29, 2018, as supplemented by letters dated June 21, August 15, and November 13, 2018.

Brief description of amendment: The amendment revised the RBS Updated Safety Analysis Report to reflect the relocation of the reactor core isolation cooling injection point from the reactor vessel head spray nozzle to the 'A' Feedwater line via the 'A' Residual Heat Removal shutdown cooling return line.

Date of issuance: December 21, 2018.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 194. A publicly-available version is in ADAMS under Accession No. ML18345A342; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–47: The amendment revised the Updated Safety Analysis Report.

Date of initial notice in **Federal Register***:* May 22, 2018 (83 FR 23732). The supplemental letters dated June 21, August 15, and November 13, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2018.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3 (Indian Point 3), Westchester County, New York

Date of amendment request: December 8, 2017, as supplemented by letter dated July 3, 2018.

Brief description of amendment: The amendment revised Technical Specification 5.5.15, ''Containment Leakage Rate Testing Program,'' to extend the frequency of the primary containment integrated leak rate test, or Type A test, at Indian Point 3. Specifically, the amendment allows for a one-time extension of the integrated leak rate test frequency from 15 years to no later than the plant restart after the Indian Point 3 Spring 2021 (3R21) Refueling Outage (*i.e.,* approximately 16 years).

Date of issuance: December 20, 2018.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 265. A publicly-available version is in ADAMS under Accession No. ML18337A422; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Amended Facility Operating License No. DPR–64: The amendment revised the Amended Facility Operating License and Technical Specifications.

Date of initial notice in **Federal Register***:* March 13, 2018 (83 FR 10916). The supplemental letter dated July 3, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change

the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2018.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: December 14, 2017.

Brief description of amendment: The amendment revised the technical specification (TS) requirements in ANO–2 TS 3.3.3.6, ''Post-Accident Instrumentation,'' to ensure both Category 1 and Type A Regulatory Guide 1.97, Revision 3, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident,'' instrumentation is included in the specification (unless already addressed within another specification) and gains greater consistency with NUREG–1432, Revision 4, ''Standard Technical Specifications, Combustion Engineering Plants.''

Date of issuance: December 19, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 313. A publicly-available version is in ADAMS under Accession No. ML18317A382; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–6: The amendment revised the Renewed Facility Operating License and TS.

Date of initial notice in **Federal Register***:* February 27, 2018 (83 FR 8515).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 2018.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 27, 2018.

Brief description of amendment: The amendments revised the LSCS Technical Specification 3.4.4, ''Safety/Relief Valves (S/RVs).'' Specifically, the amendments change the as-found tolerances with respect to the lift setpoint lower tolerance limit for the S/RVs as delineated in Surveillance Requirement 3.4.4.1 from −3 percent to −5 percent. The as-found tolerances are used for determining operability and to increase sample sizes for S/RV testing should the tolerance be exceeded.

Date of issuance: December 19, 2018.

Effective date: As of the date of issuance and shall be implemented within 45 days of issuance.

Amendment No.: Unit 1—232; Unit 2—218. A publicly-available version is in ADAMS under Accession No. ML18278A030; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in **Federal Register***:* April 10, 2018 (83 FR 15416).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 19, 2018.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of amendment request: November 10, 2017, as supplemented by letters dated October 10, 2018, and October 29, 2018.

Brief description of amendment: The amendment revised Section 6.0, ''Administrative Controls,'' of the Three Mile Island Nuclear Station, Unit 1, Technical Specifications, which makes changes to the organization, staffing, and training requirements. The amendment also revised Section 1.0, ''Definitions,'' of the Technical Specifications to add two new positions for Certified Fuel Handler and Non-Certified Operator.

Date of issuance: December 14, 2018.

Effective date: The amendment will be effective upon the licensee's submittal of the certifications required by 10 CFR 50.82(a)(1)(i) and (ii), and shall be implemented within 60 days of the effective date of the amendment, but may not exceed December 31, 2019.

Amendment No.: 295. A publicly-available version is in ADAMS under Accession No. ML18305B419; documents related to this amendment is listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–50: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in **Federal Register***:* February 13, 2018 (83 FR 6225). The supplemental letters dated October 10, 2018, and October 29, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 2018.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC and Exelon Generation Company, LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: December 18, 2017.

Brief description of amendments: The amendments revised Technical Specification 3/4.3.1, ''Reactor Trip System Instrumentation,'' and Technical Specification 3/4.3.2, ''Engineered Safety Feature Actuation System Instrumentation,'' to increase the completion times and bypass test times at Salem Nuclear Generating Station, Unit Nos. 1 and 2. These changes are consistent with the NRC-approved Technical Specifications Task Force (TSTF) Travelers TSTF–411, Revision 1, ''Surveillance Test Interval Extension for Components of the Reactor Protection System (WCAP–15376–P),'' and TSTF–418, Revision 2, ''RPS [Reactor Protection System] and ESFAS [Engineered Safety Feature Actuation System] Test Times and Completion Times (WCAP–14333),'' or are supported by plant-specific analysis.

Date of issuance: December 19, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 325 (Unit No. 1) and 306 (Unit No. 2). A publicly-available version is in ADAMS under Accession No. ML18318A266; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* March 13, 2018 (83 FR 10921). The supplemental letters dated February 9, 2018 and July 17, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 19, 2018.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant, Unit 2, Rhea County, Tennessee

Date of amendment request: October 31, 2018.

Brief description of amendment: The amendment revised the completion date for License Condition 2.C.(5) for the Watts Bar Nuclear Plant, Unit 2, regarding the completion of action to resolve the issues identified in NRC Bulletin 2012–01, ''Design Vulnerability in Electric Power System'' (ADAMS Accession No. ML12074A115), from December 31, 2018, to December 31, 2019, to align with the remainder of the Tennessee Valley Authority fleet and with the nuclear industry.

Date of issuance: December 21, 2018.

Effective date: As of the date of issuance and shall be implemented immediately.

Amendment No.: 23. A publicly-available version is in ADAMS under Accession No. ML18334A333; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–96: The amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register****:* November 14, 2018 (83 FR 56876).

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration is contained in a Safety Evaluation dated December 21, 2018.

No significant hazards consideration comments received: One comment was received on December 14, 2018. The public comment and the NRC staff response are provided in the Safety Evaluation.

Dated at Rockville, Maryland, this 25th day of January 2019.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–00358 Filed 1–30–19; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–293 and 72–1044; NRC–2018–0279]

Pilgrim Nuclear Power Station; Consideration of Approval of Transfer of License and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct and indirect transfers of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by Entergy Nuclear Operations, Inc. (ENOI) on November 16, 2018. The application seeks NRC approval of the direct and indirect transfers of Renewed Facility Operating License No. DPR–35 for Pilgrim Nuclear Power Station (Pilgrim) as well as the general license for Pilgrim Independent Spent Fuel Storage Installation (ISFSI), collectively the Licenses. ENOI on behalf of itself and Entergy Nuclear Generation Company (ENGC), Holtec International (Holtec), and Holtec Decommissioning International, LLC (HDI) requests that the NRC consent to (1) the indirect transfer of control of the Licenses to Holtec; and (2) the direct transfer of ENOI's operating authority to HDI. The NRC is also considering amending the renewed facility operating license for administrative purposes to reflect the proposed transfer. The application contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by March 4, 2019. A request for a hearing must be filed by February 20, 2019. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must follow the instructions in Section VI of the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0279. Address questions about Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearingdocket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: John G. Lamb, Office of Nuclear Reactor Regulation, telephone: 301–415–3100, email: *John.Lamb@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0279 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0279.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is

available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0279 in your comment submission.

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

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

II. Introduction

The NRC is considering the issuance of an order under § 50.80 of title 10 of the *Code of Federal Regulations* (10 CFR) and 10 CFR 72.50 approving the direct and indirect transfers of control of Pilgrim Renewed Facility Operating License No. DPR–35 as well as the general license for Pilgrim ISFSI, currently held by ENOI. Specifically, the application, dated November 16, 2018 (ADAMS Accession No. ML18320A031), requests the indirect transfer of control of the licenses from ENOI to Holtec and the direct transfer of ENOI's operating authority of Pilgrim to HDI. In addition, ENGC would be renamed Holtec Pilgrim, LLC. The NRC is also considering amending the renewed facility operating license for administrative purposes to reflect the proposed transfer.

Following approval of the proposed direct and indirect transfers of control of the licenses, Holtec Pilgrim, LLC would be the licensed owner and HDI will be the licensed operator of the Pilgrim facility.

No physical changes to Pilgrim and the Pilgrim ISFSI or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct and indirect transfers of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or to the license of an ISFSI, which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

In addition, the NRC staff will be participating in a public meeting on January 15, 2019, at the Hotel 1620 Plymouth Harbor, 180 Water Street, Plymouth, Massachusetts 02360, between 6:00 p.m. and 9:00 p.m. The agenda for the meeting will be posted on the NRC public website. The NRC will take public oral or written comments on the application for the proposed license transfer and the associated proposed updated Post-Shutdown Decommissioning Activities Report (PSDAR). The meeting will be transcribed and will include (1) presentations by HDI and ENOI, and (2) presentations by the NRC. To be considered, comments must be provided either at the transcribed public meeting or submitted by the comment deadline identified in the **DATES** section of this document. For additional information regarding the meeting, see the NRC's Public Meeting Schedule website at *http://meetings.nrc.gov/pmns/mtg.* The agenda will be posted no later than 10 days prior to the meeting.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (First Floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also

provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 20 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 20 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located

on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated November 16, 2018 (ADAMS Accession No. ML18320A031, as supplemented on November 16, 2018 (ADAMS Accession No. ML18320A040).

V. Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Any person who desires access to proprietary, confidential commercial information that has been redacted from the application should contact the applicant by telephoning Susan H. Raimo, Entergy Services, LLC, at 202–530–7330 for the purpose of negotiating a confidentiality agreement or a proposed protective order with the applicant. If no agreement can be reached, persons who desire access to this information may file a motion with the Secretary and addressed to the Commission that requests the issuance of a protective order.

Dated at Rockville, Maryland, this 2nd day of January 2019.

For the Nuclear Regulatory Commission.

John G. Lamb,

Senior Project Manager, Special Projects and Process Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–00371 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 21, 28, February 4, 11, 18, 25, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 21, 2019

Thursday, January 24, 2019

9:55 a.m.—Affirmation Session (Public Meeting) (Tentative), Draft Final Rule—Mitigation of Beyond-Design-Basis Events (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

10:00 a.m.—Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting), (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 28, 2019—Tentative

Monday, January 28, 2019

1:30 p.m.—NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Week of February 4, 2019—Tentative

There are no meetings scheduled for the week of February 4, 2019.

Week of February 11, 2019—Tentative

There are no meetings scheduled for the week of February 11, 2019.

Week of February 18, 2019—Tentative

There are no meetings scheduled for the week of February 18, 2019.

Week of February 25, 2019—Tentative

There are no meetings scheduled for the week of February 25, 2019.

ADDITIONAL INFORMATION: The meeting scheduled on January 31, 2019 at 9:00 a.m., Transformation at the NRC: Innovation, has been postponed.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on

requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 16th day of January, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00596 Filed 1–29–19; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0229]

Information Collection: Export and Import of Nuclear Equipment and Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Export and Import of Nuclear Equipment and Material.''

DATES: Submit comments by April 1, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0229. Address questions about docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0229 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0229.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML18255A003. The supporting statement is available in ADAMS under Accession No. ML18255A004.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2018–0229 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized in this section.

1. *The title of the information collection:* 10 CFR part 110, ''Export and Import of Nuclear Equipment and Material.''

2. *OMB approval number:* 3150–0036.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 830, NRC Form 830A, NRC Form 831, and NRC Form 831A.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Any person in the U.S. who wishes to export or import (a) nuclear material and equipment subject to the requirements of a specific license; (b) amend a license; (c) renew a license; (d) obtain consent to export Category 1 quantities of materials listed in Appendix P to 10 CFR part 110; or (5) request an exemption from a licensing requirement under part 110.

7. *The estimated number of annual responses:* 6,189.

8. *The estimated number of annual respondents:* 107.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 1,812.

10. *Abstract:* Persons in the U.S. who export or import nuclear material or equipment under a general or specific authorization must comply with certain reporting and recordkeeping requirements under 10 CFR part 110.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 3rd day of January 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–00383 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382; NRC–2018–0021]

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Entergy Operations, Inc. (Entergy, the licensee), to withdraw its application dated December 6, 2017, as supplemented by letter dated June 29, 2018, for a proposed amendment to the Waterford Steam Electric Station, Unit 3 (Waterford 3), Facility Operating License No. 50–382. The proposed amendment would have revised the Waterford 3 Technical Specifications (TS) 3/4.3.2 Table 4.3–2, ''Engineered Safety Features Actuation System [ESFAS] Instrumentation Surveillance Requirements.'' Specifically, the proposed amendment would have removed Note 3 of the table, the exemption from testing ESFAS relays K114, K305, and K313 at power.

DATES: January 31, 2019.

ADDRESSES: Please refer to Docket ID NRC–2018–0021 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0021. Address questions about Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: April L. Pulvirenti, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1390, email: *April.Pulvirenti@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has granted the request of Entergy to withdraw its application dated December 6, 2017 (ADAMS Accession No. ML17340B321), as supplemented by letter dated June 29, 2018 (ADAMS Accession No. ML18180A271), for a proposed amendment to Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would have revised TS 3/4.3.2 Table 4.3–2, ''Engineered Safety Features Actuation System Instrumentation Surveillance Requirements.'' The amendment would have removed from Note 3 of the table, the exemption from testing ESFAS relays K114, K305, and K313 at power. Implementation of the amendment would have required a modification to plant circuitry to allow testing for these relays while at power.

The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration published in the **Federal Register** on February 13, 2018 (83 FR 6222). However, by letter dated December 20, 2018 (ADAMS Accession No. ML18354B283), the licensee requested to withdraw the proposed amendment.

Dated at Rockville, Maryland, this 24th day of January 2019.

For the Nuclear Regulatory Commission.

April L Pulvirenti,

Project Manager, Plant Licensing Branch IV, Division of Operator Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–00390 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0240]

Information Collection: Disposal of High-Level Radioactive Wastes in Geologic Repositories

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Disposal of High-Level Radioactive Wastes in Geologic Repositories.''

DATES: Submit comments by April 1, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0240. Address questions about dockets in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0240 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0240.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML18255A345.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2018–0240 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Title 10 of the Code of Federal Regulations (CFR) part 60, ''Disposal of High-Level Radioactive Wastes in Geologic Repositories.''
2. *OMB approval number:* 3150–0127.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* The information need only be submitted one time.
6. *Who will be required or asked to respond:* State or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of a potential high-level radioactive waste geologic repository site, or wishing to participate in a license application review for a potential geologic repository (other than a potential geologic repository site at Yucca Mountain, Nevada, which is regulated under 10 CFR part 63).
7. *The estimated number of annual responses:* 6; however, none are expected in the next three years.
8. *The estimated number of annual respondents:* 6; however, none are expected in the next three years.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 726, however, none are expected in the next three years.
10. *Abstract:* Part 60 of 10 CFR requires States and Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of a potential repository site, or wish to participate in a license application review for a potential repository (other than the Yucca Mountain, Nevada site, which is regulated under 10 CFR part 63). States and Indian Tribes are required to submit information regarding requests for consultation with the NRC and participation in the review of a site characterization plan and/or license application, but only if they wish to obtain NRC consultation services and/or participate in the reviews. The information submitted by the States and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts. The NRC anticipates conducting a public rulemaking to revise portions of 10 CFR part 60 in the future. If, as part of this rulemaking, revisions are made affecting the information collection requirements, the NRC will follow OMB requirements for obtaining approval for any revised information collection requirements. [**Note:** All of the information collection requirements pertaining to Yucca Mountain were included in 10 CFR part 63, and were approved by OMB under control number 3150–0199. The Yucca Mountain site is regulated under 10 CFR part 63 (66 FR 55792, November 2, 2001).]

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 16th day of January 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–00382 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 7, 14, 21, 28, February 4, 11, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 7, 2019

There are no meetings scheduled for the week of January 7, 2019.

Week of January 14, 2019—Tentative

There are no meetings scheduled for the week of January 14, 2019.

Week of January 21, 2019—Tentative

Thursday, January 24, 2019

10:00 a.m.—Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting), (Contact: Donna Williams: 301–415–1322)

Week of January 28, 2019—Tentative

Monday, January 28, 2019

1:30 p.m.—NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Thursday, January 31, 2019

9:00 a.m.—Transformation at the NRC: Innovation (Public Meeting), (Contact: June Cai: 301–415–1771)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 4, 2019—Tentative

There are no meetings scheduled for the week of February 4, 2019.

Week of February 11, 2019—Tentative

There are no meetings scheduled for the week of February 11, 2019.

For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of January, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00594 Filed 1–29–19; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 28, February 4, 11, 18, 25, March 4, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 28, 2019

Monday, January 28, 2019

1:30 p.m.—NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

Week of February 4, 2019—Tentative

There are no meetings scheduled for the week of February 4, 2019.

Week of February 11, 2019—Tentative

There are no meetings scheduled for the week of February 11, 2019.

Week of February 18, 2019—Tentative

There are no meetings scheduled for the week of February 18, 2019.

Week of February 25, 2019—Tentative

There are no meetings scheduled for the week of February 25, 2019.

Week of March 4, 2019—Tentative

There are no meetings scheduled for the week of March 4, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Diane.Garvin@nrc.gov.*

Dated at Rockville, Maryland, this 25th day of January, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–00597 Filed 1–29–19; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0036]

Information Collection: NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License.''

DATES: Submit comments by March 4, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: Office of

Information and Regulatory Affairs (3150–0031), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0036 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0036. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0036 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML18135A215. The supporting statement is available in ADAMS under Accession No. ML18309A282.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 24, 2018, 83 FR 42946.

1. *The title of the information collection:* NRC Form 244, ''Registration Certificate—Use of Depleted Uranium Under General License.''

2. *OMB approval number:* 3150–0031.

3. *Type of submission:* Revision.

4. *The form number if applicable:* NRC Form 244.

5. *How often the collection is required or requested:* Within 30 days after the first receipt or acquisition of depleted uranium. Any changes in information furnished by the registrant in the NRC Form 244 shall be reported in writing to the Director, Office of Nuclear Material Safety and Safeguards, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of title 10 of the *Code of Federal Regulations* (10 CFR) part 20; this report shall be submitted within 30 days after the effective date of such change.

6. *Who will be required or asked to respond:* Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established in 10 CFR 40.25(a).

7. *The estimated number of annual responses:* 19.

8. *The estimated number of annual respondents:* 11.5.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 11 hours.

10. *Abstract:* Part 40 of 10 CFR, establishes requirements for the receipt, possession, use and transfer of radioactive source and byproduct materials. Section 40.25 established a general license authorizing the use of depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device. The NRC Form 244 is used to report the receipt and transfer of depleted uranium, as required by section 40.25. The registration information required by the NRC Form 244 enables the NRC to make a determination on whether the possession, use, or transfer of depleted uranium source and byproduct material is in conformance with the NRC's regulations for the protection of public health and safety.

Dated at Rockville, Maryland, this 3rd day of January 2018.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–00385 Filed 1–30–19; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Notice: March 20, 2019 Annual Public Hearing

TIME AND DATE: 2:00 p.m., Wednesday, March 20, 2019.

PLACE: Offices of the Corporation, Twelfth Floor Board Room; 1100 New York Avenue NW, Washington, DC.

STATUS: Hearing OPEN to the Public at 2 p.m.

MATTERS TO BE CONSIDERED: This will be a Public Hearing, held annually, to afford an opportunity for any person to present views regarding the activities of the Corporation. Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Tuesday, March 5, 2019. The notice must include the individual's name, title, organization, address, email, telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Tuesday, March 5, 2019. Such statement must be typewritten, double-spaced, and may not exceed twenty-five (25) pages. Upon receipt of the required notice, OPIC will prepare an agenda for the hearing identifying speakers, setting forth the subject on which each participant will speak, and the time allotted for each presentation. The agenda will be available at the hearing.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Catherine F. I. Andrade at (202) 336–8768, or via email at *catherine.andrade@opic.gov.*

Dated: January 29, 2019.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2019–00726 Filed 1–29–19; 4:15 pm]

BILLING CODE 3210–01–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2018; Order No. 4967]

Postal Service Performance Report and Performance Plan

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: On December 28, 2018, the Postal Service filed the FY 2018 Performance Report and FY 2019 Performance Plan with its FY 2018 Annual Compliance Report. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 8, 2019. *Reply Comments are due:* February 22, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Each year the Postal Service must submit to the Commission its most recent annual performance plan and annual performance report. 39 U.S.C. 3652(g). On December 28, 2018, the Postal Service filed its FY 2018 Annual Report to Congress in Docket No. ACR2018.[1] The FY 2018 Annual Report includes the Postal Service's FY 2018 annual performance report (FY 2018 Report) and FY 2019 annual performance plan (FY 2019 Plan). FY 2018 Annual Report at 15–32.

The FY 2019 Plan reviews the Postal Service's plans for FY 2019. The FY 2018 Report discusses the Postal Service's progress during FY 2018 toward its four performance goals:

- High-Quality Service
- Excellent Customer Experiences
- Safe Workplace and Engaged Workforce
- Financial Health

Each year, the Commission must evaluate whether the Postal Service met the performance goals established in the annual performance plan and annual performance report. 39 U.S.C. 3653(d). The Commission may also ''provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in'' title 39. *Id.*

Since Docket No. ACR2013, the Commission has evaluated whether the Postal Service met its performance goals in reports separate from the Annual Compliance Determination.[2] The Commission continues this current practice to provide a more in-depth analysis of the Postal Service's progress toward meetings its performance goals and plans to improve performance in future years. To facilitate this review, the Commission invites public comment on the following issues:

- Did the Postal Service meet its performance goals in FY 2018?
- Do the FY 2018 Report and the FY 2019 Plan meet applicable statutory requirements, including 39 U.S.C. 2803 and 2804?
- What recommendations should the Commission provide to the Postal Service that relate to protecting or promoting public policy objectives in title 39?
- What recommendations or observations should the Commission make concerning the Postal Service's strategic initiatives? [3]
- What other matters are relevant to the Commission's analysis of the FY 2018 Report and the FY 2019 Plan under 39 U.S.C. 3653(d)?

II. Request for Comments

Comments by interested persons are due no later than February 8, 2019. Reply comments are due no later than February 22, 2019. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as Public Representative to represent the interests of the general public in this proceeding with respect to issues related to the Commission's analysis of the FY 2018 Report and the FY 2019 Plan.

III. Ordering Paragraphs

It is ordered:

1. The Commission invites public comment on the Postal Service's FY 2018 Report and FY 2019 Plan.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to serve as Public Representative to represent the interests of the general public in this proceeding with respect to issues related to the Commission's analysis of the FY 2018 Report and the FY 2019 Plan.

3. Comments are due no later than February 8, 2019.

4. Reply comments are due no later than February 22, 2019.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**. Due to its funding lapse, the **Federal Register** is not being supported and this Order's publication will be delayed. The delay in publication in the **Federal Register** will not affect comment deadlines.

[1] United States Postal Service FY 2018 Annual Report to Congress, Library Reference USPS–FY18–17, December 28, 2018 (FY 2018 Annual Report).

[2] *See* Docket No. ACR2013, Postal Regulatory Commission, Review of Postal Service FY 2013 Performance Report and FY 2014 Performance Plan, July 7, 2014; Docket No. ACR2014, Postal Regulatory Commission, Analysis of the Postal Service's FY 2014 Program Performance Report and FY 2015 Performance Plan, July 7, 2015; Docket No. ACR2015, Postal Regulatory Commission, Analysis of the Postal Service's FY 2015 Annual Performance Report and FY 2016 Performance Plan, May 4, 2016; Docket No. ACR2016, Postal Regulatory Commission, Analysis of the Postal Service's FY 2016 Annual Performance Report and FY 2017 Performance Plan, April 27, 2017; Docket No. ACR2017, Postal Regulatory Commission, Analysis of the Postal Service's FY 2017 Annual Performance Report and FY 2018 Performance Plan, April 26, 2018.

[3] *See* FY 2018 Annual Report at 31–32.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–00395 Filed 1–30–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. T2019–1; Order No. 4986]

Income Tax Review

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the calculation of the assumed Federal income tax on competitive products income for Fiscal Year 2018. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 1, 2019.

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

In accordance with 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.,* the Postal Service filed its calculation of the assumed Federal income tax on competitive products income for fiscal year (FY) 2018.[1] The calculation details the FY 2018 competitive product revenue and expenses, the competitive products net income before tax, and the assumed Federal income tax on that net income.

II. Notice of Commission Action

In accordance with 39 CFR 3060.42, the Commission establishes Docket No. T2019–1 to review the calculation of the assumed Federal income tax and supporting documentation.

[1] *See* Notice of the United States Postal Service of Submission of the Calculation of the FY 2018 Assumed Federal Income Tax on Competitive Products, January 10, 2019.

The Commission invites comments on whether the Postal Service's filing in this docket is consistent with the policies of 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.* Comments are due no later than March 1, 2019. The Postal Service's filing can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Jennaca D. Upperman to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. T2019–1 to consider the calculation of the assumed Federal income tax on competitive products for FY 2018.

2. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than March 1, 2019.

4. The Secretary shall arrange for publication of this order in the **Federal Register**. Due to its funding lapse, the **Federal Register** is not being supported and this order's publication will be delayed. The delay in publication in the **Federal Register** will not affect comment deadlines.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–00397 Filed 1–30–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2018; Order No. 4960]

FY 2018 Annual Compliance Report

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has filed an Annual Compliance Report on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2018. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were in compliance with title 39, chapter 36, and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's Annual Compliance Report.

DATES: *Comments are due:* January 31, 2019. *Reply Comments are due:* February 11, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On December 28, 2018, the United States Postal Service (Postal Service) filed with the Commission its Annual Compliance Report (ACR) for fiscal year (FY) 2018, pursuant to 39 U.S.C. 3652.[1] Section 3652 requires submission of data and information on the costs, revenues, rates, and quality of service associated with postal products within 90 days of the closing of each fiscal year. In conformance with other statutory provisions and Commission rules, the ACR includes the Postal Service's FY 2018 Comprehensive Statement, its FY 2018 annual report to the Secretary of the Treasury on the Competitive Products Fund, and certain related Competitive Products Fund material. *See respectively,* 39 U.S.C. 3652(g), 39 U.S.C. 2011(i), and 39 CFR 3060.20–23. In line with past practice, some of the material in the FY 2018 ACR appears in non-public annexes.

The filing begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2018 were in compliance with applicable title 39 requirements.

II. Overview of the Postal Service's FY 2018 ACR

Contents of the filing. The Postal Service's FY 2018 ACR consists of a 77-page narrative; extensive additional material appended as separate folders and identified in Attachment One; and an application for non-public treatment of certain materials, along with supporting rationale, filed as Attachment Two. The filing also includes the Comprehensive

[1] United States Postal Service FY 2018 Annual Compliance Report, December 28, 2018 (FY 2018 ACR). Public portions of the Postal Service's filing are available on the Commission's website at *http://www.prc.gov.*

Statement,[2] Report to the Secretary of the Treasury, and information on the Competitive Products Fund filed in response to Commission rules. This material has been filed electronically with the Commission.

Scope of the filing. The material appended to the narrative consists of: (1) Domestic product costing material filed on an annual basis summarized in the Cost and Revenue Analysis (CRA); (2) comparable international costing material summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant information for both domestic and international mail. FY 2018 ACR at 2–3. Inclusion of these four data sets is consistent with the Postal Service's past ACR practices. As with past ACRs, the Postal Service has split certain materials into public and non-public versions. *Id.* at 3.

''*Roadmap*'' *document.* A roadmap to the FY 2018 ACR can be found in Library Reference USPS–FY18–9. This document provides brief descriptions of the materials submitted, as well as the flow of inputs and outputs among them; a discussion of differences in methodology relative to Commission methodologies in last year's ACD; and a list of special studies and a discussion of obsolescence, as required by Commission rule 3050.12. *Id.* at 3–4.

Methodology. The Postal Service states that it has adhered to the methodologies historically used by the Commission subject to changes identified and discussed in Library Reference USPS–FY18–9 and in prefaces accompanying the appended folders. *Id.* at 4. The Postal Service observes that one noteworthy methodological change regarding product costs was discussed in response to Commission Order No. 3506 and approach for reporting of group incremental cost estimates used by the Commission in the FY 2017 ACD.[3] As a result, the Postal Service's FY 2018 CRA reports group incremental cost estimates when available as the attributable costs of combinations of products, including for the market dominant classes. FY 2018 ACR at 5. As a consequence, the costs labeled as attributable costs in each row of the FY 2018 CRA are not directly comparable to costs reported with the same label in the CRAs filed prior to FY 2017. *Id.* at 6.

Market dominant product-by-product costs, revenues, and volumes. Comprehensive cost, revenue, and volume data for all market dominant products of general applicability are shown directly in the FY 2018 CRA or ICRA. *Id.* at 8.

The FY 2018 ACR includes a discussion by class of each market dominant product, including costs, revenues, and volumes, workshare discounts, and passthroughs responsive to 39 U.S.C. 3652(b), and FY 2018 promotions. *Id.* at 8–45.

In response to the Commission's FY 2010 ACD directives,[4] the Postal Service states that it is providing information regarding: (1) All operational changes designed to reduce flats costs and the estimated financial effects of such changes (FY 2018 ACR at 24–32); (2) all costing methodology improvements made in FY 2018 and the estimated financial effects of such changes (*id.* at 32–36); and (3) a statement summarizing the current year subsidy of the flats product (*id.* at 35). In addition, the Postal Service presented its schedule of above-average price increases for Flats which provides planned price increases for Flats by the consumer price index times 1.05. *Id.* at 25.

Market dominant negotiated service agreements. The FY 2018 ACR presents information on the PHI Acquisitions, Inc. negotiated service agreement (NSA), the only market dominant NSA in effect in FY 2018. *Id.* at 43–44. The agreement was terminated effective June 30, 2018. *Id.* at 43.

Service performance. The Postal Service notes that the Commission issued rules on periodic reporting of service performance measurement and customer satisfaction in FY 2010. Responsive information appears in Library Reference USPS–FY18–29. *Id.* at 46.

Customer satisfaction. The FY 2018 ACR discusses the Postal Service's approach for measuring customer experience and satisfaction; discusses survey modifications; describes the methodology; presents a table with survey results; compares the results from FY 2017 to FY 2018; and provides information regarding customer access to postal services. *Id.* at 48–65.

Competitive products. The FY 2018 ACR provides costs, revenues, and volumes for competitive products of general applicability in the FY 2018 CRA or ICRA. For competitive products not of general applicability, data are provided in non-public Library References USPS–FY18–NP2 and USPS–FY18–NP27. *Id.* at 66. The FY 2018 ACR also addresses the competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 66–74. The Postal Service also provides a response to the Commission's Directive in Order No. 4792 and reports separately the revenue, pieces, and weight of ECOMPRO pieces for each country in USPS–FY18–NP9.[5] Additionally, the Postal Service responds to the Commission's Directive in the FY 2016 ACD requiring it to identify each NSA product that had no mailpieces shipped under its contract in future ACRs.[6] This information is provided in USPS–FY18–NP27 (for domestic NSAs) and USPS–FY18–NP2 (for international NSAs). FY 2018 ACR at 74.

Market tests; nonpostal services. The Postal Service discusses the two competitive market tests conducted during FY 2018 and nonpostal services. *Id.* at 75.

III. Procedural Steps

Statutory requirements. Section 3653 of title 39 requires the Commission to provide interested persons with an opportunity to comment on the ACR and to appoint an officer of the Commission (Public Representative) to represent the interests of the general public. The Commission hereby solicits public comment on the Postal Service's FY 2018 ACR and on whether any rates or fees in effect during FY 2018 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 or Commission regulations promulgated thereunder. Commenters addressing market dominant products are referred in particular to the applicable requirements (39 U.S.C. 3622(d) and (e) and 39 U.S.C. 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to 39 U.S.C. 3633.

The Commission also invites public comment on the cost coverage matters the Postal Service addresses in its filing; service performance results; levels of

[2] In years prior to 2013, the Commission reviewed the Postal Service's reports prepared pursuant to 39 U.S.C. 2803 and 39 U.S.C. 2804 (filed as the Comprehensive Statement by the Postal Service) in its ACD. However, as it has for the past several years, the Commission intends to issue a separate notice soliciting comments on the comprehensive statement and provide its related analysis in a separate report from the ACD.

[3] *Id.; see* Docket No. RM2016–2, Order Concerning United Parcel Service, Inc.'s Proposed Changes to Postal Service Costing Methodologies (UPS Proposals One, Two, and Three), September 9, 2016 (Order No. 3506). Docket No. ACR 2017, Annual Compliance Determination, March 29, 2018, at 8–10 (FY 2017 ACD).

[4] Docket No. ACR2010, Annual Compliance Determination, March 29, 2011, at 106–107 (FY 2010 ACD).

[5] Docket No. CP2018–286, Order Approving Changes in Prices Not of General Applicability for Certain Inbound Parcel Post (at UPU Rates), August 23, 2018, at 7 (Order No. 4792).

[6] Docket No. ACR 2016, Annual Compliance Determination, March 28, 2017, at 83 (FY 2016 ACD).

customer satisfaction achieved; and such other matters that may be relevant to the Commission's review.

Access to filing. The Commission has posted the publicly available portions of the FY 2018 ACR on its website at *http://www.prc.gov.*

Comment deadlines. Comments by interested persons are due on or before January 31, 2019. Reply comments are due on or before February 11, 2019. The Commission, upon completion of its review of the FY 2018 ACR, comments, and other data and information submitted in this proceeding, will issue its ACD.

Public Representative. Mallory L. Smith is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist her shall participate in or advise as to any Commission decision in this proceeding other than in his or her designated capacity.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. ACR2018 to consider matters raised by the United States Postal Service's FY 2018 Annual Compliance Report.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Mallory L. Smith as an officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.

3. Comments on the United States Postal Service's FY 2018 Annual Compliance Report to the Commission are due on or before January 31, 2019.

4. Reply comments are due on or before February 11, 2019.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**. Due to its funding lapse, the **Federal Register** is not being supported and this Order's publication will be delayed. The delay in publication in the **Federal Register** will not affect comment deadlines.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–00396 Filed 1–30–19; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Employer's Quarterly Report of Contributions under the Railroad Unemployment Insurance Act; OMB 3220–0012.

Under Section 8 of the Railroad Unemployment Insurance Act (RUIA), as amended by the Railroad Unemployment Improvement Act of 1988 (Pub. L. 100–647), the RRB determines the amount of an employer's contribution, primarily on the basis of the RUIA benefits paid, both unemployment and sickness, to the employees of the railroad employer. These experienced-based contributions take into account the frequency, volume, and duration of the employees' unemployment and sickness benefits. Each employer's contribution rate includes a component for administrative expenses as well as a component to cover costs shared by all employers. The regulations prescribing the manner and conditions for remitting the contributions and for adjusting overpayments or underpayments of contributions are contained in 20 CFR 345.

RRB Form DC–1, Employer's Quarterly Report of Contributions under the Railroad Unemployment Insurance Act, is used by railroad employers to report and remit their quarterly contributions to the RRB. Employers can use either the manual version of the form or its internet equivalent. One response is requested of each respondent. Completion is mandatory.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (83 FR 55580 on November 6, 2018) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer's Quarterly Report of Contributions under the RUIA.

OMB Control Number: 3220–0012.

Form(s) submitted: DC–1.

Type of request: Revision of a currently approved collection.

Affected public: Private Sector: Businesses or other for-profits.

Abstract: Railroad employers are required to make contributions to the Railroad Unemployment Insurance fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

Changes proposed: The RRB proposes minor non-burdening changes to the manual and electronic versions of the forms in the collection and combined Paperwork Reduction Act link and form instructions link in the *Pay.gov* form version and renamed the link to read ''Click for Instructions and Paperwork Reduction Act Notice.''

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
DC–1 (*RRB.Gov*)	720	25	300
DC–1 (*Pay.Gov*)	1,680	25	700
Total	2,400		1,000

2. *Title and Purpose of information collection:* Nonresident Questionnaire; OMB 3220–0145.

Under Public Laws 98–21 and 98–76, benefits under the Railroad Retirement Act payable to annuitants living outside the United States may be subject to taxation under United States income tax laws. Whether the social security equivalent and non-social security equivalent portions of Tier I, Tier II, vested dual benefit, or supplemental annuity payments are subject to tax withholding, and whether the same or different rates are applied to each payment, depends on a beneficiary's citizenship and legal residence status, and whether exemption under a tax treaty between the United States and the country in which the beneficiary is a legal resident has been claimed. To effect the required tax withholding, the Railroad Retirement Board (RRB) needs to know a nonresident's citizenship and legal residence status.

To secure the required information, the RRB utilizes Form RRB–1001, *Nonresident Questionnaire,* as a supplement to an application as part of the initial application process, and as an independent vehicle for obtaining the needed information when an annuitant's residence or tax treaty status changes. One response is requested of each respondent. Completion is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (83 FR 55580 on November 6, 2018) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Nonresident Questionnaire.
OMB Control Number: 3220–0145.
Forms submitted: RRB–1001.
Type of request: Revision of a currently approved collection of information.
Affected public: Individuals or Households.

Abstract: Under the Railroad Retirement Act, the benefits payable to an annuitant living outside the United States may be subject to withholding under Public Laws 98–21 and 98–76. The form obtains the information needed to determine the amount to be withheld.

Changes proposed: The RRB proposes to make the following non-burden changes to Form RRB–1001: Renumbered Items A through C and G to Items 1 through 4; renumbered Items 1 through 5 to Items 5 through 9; removed Item D (CNTRY CODE), removed Item E (CITZ CODE), and removed Item F (NRA TAX CODE) as the information collected by them is no longer needed; and removed the General Instructions and the Paperwork Reduction Act and Privacy Act Notices from the back of the form as they are included in the Form TB–26 instructions, which is an enclosure.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
RRB–1001 (Initial Filing)	300	30	250
RRB–1001 (Tax Renewal)	1,000	30	400
Total	1,300		650

3. *Title and Purpose of information collection:* Statement of Claimant or Other Person; OMB 3220–0183.

To support an application for an annuity under Section 2 of the Railroad Retirement Act (RRA) or for unemployment benefits under Section 2 of the Railroad Unemployment Insurance Act (RUIA), pertinent information and proofs must be furnished for the RRB to determine benefit entitlement. Circumstances may require an applicant or other person(s) having knowledge of facts relevant to the applicant's eligibility for an annuity or benefits to provide written statements supplementing or changing statements previously provided by the applicant. Under the railroad retirement program these statements may relate to a change in an annuity beginning date(s), date of marriage(s), birth(s), prior railroad or non-railroad employment, an applicant's request for reconsideration of an unfavorable RRB eligibility determination for an annuity or various other matters. The statements may also be used by the RRB to secure a variety of information needed to determine eligibility to unemployment and sickness benefits. Procedures related to providing information needed for RRA annuity or RUIA benefit eligibility determinations are prescribed in 20 CFR 217 and 320 respectively.

The RRB utilizes Form G–93, *Statement of Claimant or Other Person,* to obtain from applicants or other persons, the supplemental or corrective information needed to determine applicant eligibility for an RRA annuity or RUIA benefits. One response is requested of each respondent. Completion is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (83 FR 55580 on November 6, 2018) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Statement of Claimant or Other Person.
OMB Control Number: 3220–0183.
Form(s) submitted: G–93.
Type of request: Extension without change of a currently approved collection.
Affected public: Individuals or Households.
Abstract: Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.
Changes proposed: The RRB proposes no changes to Form G–93.
The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–93	60	15	15

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Brian Foster at (312) 751–4826 or *Brian.Foster@rrb.gov.*

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or *Brian.Foster@rrb.gov* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Brian Foster,

Clearance Officer.

[FR Doc. 2019–00450 Filed 1–30–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84963; File No. SR–CboeBZX–2018–095]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BZX Equities Fee Schedule

December 26, 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 December 21, 2018, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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

Cboe BZX Exchange, Inc. is proposing a rule change to change the nomenclature associated with the current logical port fees charged for order entry ports to reflect a new match capacity fee that better captures the service offering of these products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange offers two types of logical ports that permit members to enter orders into its trading system—*i.e.,* Financial Information eXchange (''FIX'') and Binary Order Entry (''BOE''). The purpose of the proposed rule change is to amend the BZX Equities fee schedule to change the nomenclature associated with the current logical port fees charged for these offerings to reflect a new match capacity fee that better captures the service offering of these products. As communicated to members, although the Exchange is changing its nomenclature to better reflect the services provided to market participants, the proposed capacity allocations described in this proposed rule change would continue to operate in the same manner as logical ports currently used to connect to the Exchange. The Exchange believes, however, that properly characterizing these fees as ''capacity fees,'' and specifying the actual levels of message traffic supported by these products, will increase transparency and clarity around its charges and reduce confusion about the value of the services being provided to market participants that choose to access these services.

Today, the Exchange charges all logical connectivity fees on a ''per port'' basis. A logical port represents a technical port established by the Exchange within the Exchange's trading system for the delivery and/or receipt of trading messages—*i.e.,* orders, accepts, cancels, transactions, etc.[3] Market participants that wish to connect directly to the Exchange can request a number of different types of ports, including ports that support order entry, customizable purge functionality, or the receipt of market data. Firms can also choose to connect indirectly through a number of different third party providers, such as another broker-dealer or service bureau that the Exchange permits through specialized access to the Exchange's trading system and that may provide additional services or operate at a lower mutualized cost by providing access to multiple members.[4] Each logical port that supports order entry entitles a firm to submit message traffic of up to 5,000 messages per second, an amount equivalent to 117 million messages daily, and is currently charged at a rate of $550 per month.[5]

An obvious driver for a member's decision to purchase multiple ports is their desire to send or receive additional levels of message traffic in some manner, either by increasing the member's total amount of message capacity available, or by segregating order flow for different trading desks and clients to avoid latency sensitive applications from competing for a single thread of resources. For example, a member may purchase one or more ports for its market making business based on the amount of message traffic needed to support that business, and then purchase separate ports for proprietary trading or customer facing businesses so that those businesses have their own distinct connection, allowing the firm to send multiple messages into the Exchange's trading system in parallel rather than sequentially. Some members that provide direct market access to their customers also purchase separate ports for different clients as a service for latency sensitive customers that desire the lowest possible latency to improve trading performance. Thus, while a smaller firm with a simple business model may be able to transact on the Exchange using one or two FIX or BOE ports that are billed at a modest rate of $550 per month each,[6] a larger

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange separately offers physical ports that grant access to the Exchange's physical connectivity infrastructure.

[4] 24% of members that traded equities on BZX in November determined that their business does not require direct order entry access, and instead connect indirectly to the Exchange today through a service bureau or other service provider.

[5] Logical port fees are limited to logical ports within the primary data center. No logical port fees are assessed for redundant secondary data center ports. *See* BZX Equities Fee Schedule, Logical Port Fees. New requests are prorated for the first month of service. Cancellation requests are billed in full month increments as firms are required to pay for the service for the remainder of the month, unless the session is terminated within the first month of service. *Id.*

[6] 18% of members that traded equities on BZX in November purchased only one or two order entry ports.

market participant with a substantial and diversified U.S. equities business may purchase additional order entry ports to support both the volume and types of activity that they conduct on the Exchange.

Based on data analyzed by the Exchange, the top ten BZX members, which account as a group for nearly two-thirds of BZX equities volume, have chosen to purchase 47% of order entry ports. More simply put, the top ten BZX members have purchased the ability to use 47% of the capacity of the BZX trading system. In addition to the Exchange's commercial obligations to maintain resilient systems capable of efficiently processing the message traffic that originates from those firms, the Exchange is now also under regulatory obligations to maintain resilient systems while receiving messages at the peak capacity of those ports. While the Exchange does not know the trading results of its members, it is clear that the members with larger businesses, based on volume executed, have larger demands for the capacity of the Exchange's systems. It should also be noted that half of those top ten members are *net positive* in terms of total revenue flows as the trading rebates provided to these firms for liquidity and order flow *exceed* the sum of all non-transaction and transaction fees collected from them.

In addition to volume, the types of trading strategies employed by a particular member may also impact the amount of message traffic delivered to Exchange systems, and hence the number of ports purchased to support their equities trading business. As a national securities exchange, the Exchange is tasked with cultivating a vibrant and competitive market that facilitates fair and orderly trading between a wide range of market participants that employ a wide range of trading strategies. These market participants together help cultivate the equities trading ecosystem, and both support that ecosystem in different ways and use different amounts of resources (*i.e.,* capacity) in doing so. Some simple trading strategies such as those employed by investors seeking to source available liquidity at the national best bid or offer may require a modest amount of capacity. Other trading strategies used by professional market makers or algorithmic traders that involve the frequent entry, modification, and cancellation of orders, may require additional capacity, including potentially higher peak capacity when multiple trading strategies or algorithms across multiple logical ports attempt to access the Exchange at similar and granular time intervals due to anticipated changes in the market. The Exchange believes that charging for capacity ensures that firms that demand the most resources are charged appropriately, while firms that demand relatively less capacity can connect and trade on the Exchange at a low cost.

Charging fees based on allocated capacity thus ensures that the cost of access is equitably apportioned between market participants based on their business needs. Nevertheless, the Exchange believes that there is some confusion in the industry surrounding how the Exchange and other national securities exchanges charge for connectivity, including the burden on smaller firms that actually benefit from the current structure where market participants are charged based on the number of ports (*i.e.,* capacity) that they request. In the interest of transparency, the Exchange is therefore proposing to replace its ''per port'' fees with capacity fees that more accurately capture the intent this fee. While the Exchange's logical connectivity offerings will continue to operate in the same manner as they do today, the Exchange believes that the proposed changes in terminology, which connect the fees charged for logical connectivity to the capacity requested by market participants, would shed additional light on this service offering. As proposed, fees would be explicitly assessed based on the capacity allocation (*i.e.,* messages per second) requested for order entry in the Exchange's primary data center.[7] Specifically, the match capacity fee would be $550 per month for an allocation of 5,000 messages per second.[8] Members that require more capacity due to the size of their U.S. equities business, the trading strategies that they employ, the desire to reduce latency by maintaining multiple separate logical connections, or any other reason, would be able to continue purchasing additional capacity allocations in the primary data center at the same monthly rate. As is the case today, no fee would be assessed for redundant capacity in the secondary data center thus providing members with free, identical capacity allocations in the secondary data center based on their capacity requests in the primary.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[9] in general, and furthers the requirements of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In light of recent debate and calls for transparency around exchange charges for market access, the Exchange believes that the proposed changes to how fees for logical connectivity are reflected on the fee schedule would shed additional light on how market participants are charged for connectivity. The Exchange believes that its fees for logical connectivity, which would now be reflected as a match capacity fee, continue to be reasonable, equitable, and not unfairly discriminatory as they are designed to ensure that firms that use the most capacity pay for that capacity, rather than placing that burden on market participants that have more modest needs.

Today, the Exchange charges a ''per port'' fee for logical connectivity. This fee is in effect a capacity fee as each FIX or BOE port used for order entry supports a specified capacity (*i.e.,* messages per second) in the matching engine, and firms purchase additional logical ports when they require more capacity due to their business needs. Smaller members that demand more limited message traffic may connect through a service bureau or other service provider, as chosen by 24% of members,[11] or may choose to purchase one or two order entry ports, as chosen by 18% of members.[12] At the same time, firms with more order flow, or that employ unique trading strategies that result in increased message traffic throughout the trading day or at times of higher peak traffic, may choose to purchase additional ports to support their business. The Exchange believes that the proposed match capacity fees are appropriate as these fees would ensure that market participants continue to pay for the amount of capacity that they request. The Exchange therefore believes that its logical connectivity fees are aligned with the goals of the Commission in facilitating a competitive

[7] Firms that already connect through logical ports would have uninterrupted service across the established connections and would not need to re-request capacity allocations.

[8] New requests would continue to be prorated for the first month of service, and cancellation requests would be billed in full month increments. *See* note 5 supra.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] *See* supra note 4.

[12] *See* supra note 6. Altogether, a significant percentage of members (42%) that trade equities on BZX purchase two or fewer order entry ports—*i.e.,* including members that purchase no ports and connect indirectly instead.

market for all firms that trade on the Exchange.

The proposed match capacity fee would not change the services provided to market participants, and would be billed at the same monthly rate as currently charged today on a per port basis, but would ensure that the way the Exchange's fees are described is more closely aligned with the goal of those fees. Specifically, each match capacity fee paid by a member would allow that firm to continue to submit up to 5,000 messages per second to the Exchange for processing in accordance with the Exchange's trading rules.[13] For only $550 per month a member would therefore be able submit as many as 117 million messages daily into the Exchange's trading system. In addition, market participants that desire more total capacity due to their business needs, or that wish to segregate order flow by purchasing separate capacity allocations to reduce latency or for other operational reasons, would be permitted to choose to purchase such additional capacity at the same marginal cost. The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to charge for connectivity in this manner as this structure ensures that the firms can choose based on their needs, and the firms that pay the most are the ones that demand the most resources from the Exchange.

To illustrate the large variance in message traffic used by BZX members, the Exchange compiled statistics on the average message traffic generated during November 2018 by each firm across three periods: (1) The open (9:30 a.m.–9:35 a.m.), (2) regular trading (9:35 a.m.–3:55 p.m.), and (3) the close (3:55 p.m.–4:00 p.m.).[14] The summary table below shows the average order rate/second for firms,[15] bucketed in groups based on their rank in the distribution. Significantly higher message traffic is generated by firms at the top of the distribution, which represents the firms with the largest U.S. equities businesses, with firms at the bottom of the distribution accounting for a small percentage of traffic generated.

SUMMARY TABLE—AVERAGE ORDER RATE/SECOND

Rank	Open	Regular trading	Close
1–5	4,693	2,059	3,904
6–10	1,743	739	1,173
11–20	666	296	437
21–30	176	99	207
31–40	123	42	68
41–50	68	12	28
51+	2	1	2

While message traffic for individual market participants typically peaks at higher levels during certain periods of greater market activity, not a single firm had an average order rate that exceeded the 5,000 messages per second permitted over a single port for the period of regular trading that accounts for the substantial majority of the trading day. In fact, only five firms exceeded an average of greater than 1,000 messages per second, and these firms collectively generated more message traffic than every other firm combined.[16] In the first and last five minutes of the trading day around the open and close of trading, where volatility and therefore message traffic is typically higher, only three firms had an average order rate that exceeded 5,000 messages per second, with the top five again accounting for more message traffic than all other market participants combined in both of these periods. A number of sophisticated market participants may also have higher peak traffic intraday if their business involves the frequent modification or cancellation of a large number of orders at very granular millisecond or microsecond time intervals, particularly when multiple trading strategies or algorithms that come through different logical connections attempt to access the market simultaneously. The Exchange must build resilient trading systems that are able support significant bursts in message traffic from such firms, including most recently on October 18, 2018 when the Exchange successfully processed a historical high burst in message traffic of 1,140,183 messages per second.

Thus, although certain broker-dealers with large and profitable U.S. equities businesses may purchase multiple order entry ports, the Exchange believes that this is appropriately driven by the amount of message traffic that they generate throughout the day and at periods where more message traffic is generated. Furthermore, the data shows that market participants with modest capacity needs can access the Exchange at a very low cost. While the Exchange believes that encouraging order flow and liquidity from a diverse set of market participants facilitates price discovery and improves the quality of our markets, the Exchange also believes that firms that desire additional capacity to support trading strategies with higher peak traffic should continue to be charged for the capacity that they request rather than have this cost mutualized across firms with a much smaller footprint.

With the proposed fees, firms with modest capacity needs could continue to pay for and operate their business with the baseline capacity of 5,000 messages per second, which represents the equivalent of one logical port today. Furthermore, large and sophisticated market participants that require significantly more capacity than their smaller counterparts would be able to purchase that capacity from the Exchange at a reasonable marginal cost and thereby satisfy their business needs, including the need for higher peak traffic. The Exchange therefore believes that the proposed match capacity fee both appropriately reflects the benefits

[13] The Exchange has invested considerable time and resources in designing and maintaining a resilient trading system that is capable of handling the message traffic produced by members in a manner that complies with its obligations as a national securities exchange.

[14] The dataset includes all firms that have purchased order entry ports, including BZX members or non-members that provide indirect access to the Exchange.

[15] The order rate includes, for each firm, all new orders, modifies, and cancel messages submitted into the trading system. The average order rate is calculated by dividing the number of messages by the number of seconds for the period.

[16] Individually, all but one of the firms in the top five generated more message traffic than the total message traffic generated by all firms outside of the top 20 combined, and the firm with the highest order rate alone generated almost twice as much as such firms.

to different firms of being able to send messages into the Exchange's trading system, and facilitates the Commission's goal of ensuring that critical market infrastructure has ''levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets.'' [17]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained herein, the proposed rule change is designed to increase transparency around the Exchange's fees by changing the nomenclature associated with ''per port'' fees for order entry logical ports to reflect a capacity fee. The Exchange believes that charging logical connectivity fees based on the capacity used by a market participant is pro-competitive because it ensures that firms with the largest U.S. equities market share, or that employ trading strategies that result in increased message traffic, continue to pay for the capacity that they request, while smaller firms can connect and trade at a low cost.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 [19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–095 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2018–095. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–095 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00474 Filed 1–30–19; 8:45 am]

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[17] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014) (File No. S7–01–13) (Regulation SCI Adopting Release).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84976; File No. SR–NYSEARCA–2018–77]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Rule 7.44–E To Expand and Modify the Exchange's Retail Liquidity Program

December 26, 2018.

I. Introduction

On October 26, 2018, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 7.44–E to expand the Exchange's Retail Liquidity Program (''RLP'') to all securities traded on NYSE Arca and make certain other modifications.

The proposed rule change was published for comment in the **Federal Register** on November 14, 2018.[3] On December 10, 2018, the Commission extended to February 12, 2019, the time period in which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.[4] The Commission received no comments on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.

II. Summary of the Proposed Rule Change

The Exchange proposes to amend Rule 7.44–E, which sets forth the Exchange's Retail Liquidity Program (the ''Program''), to: (i) Expand the Program's availability to all securities traded on the Exchange; (ii) remove

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84547 (November 7, 2018), 83 FR 56890 (''Notice'').

[4] *See* Securities Exchange Act Release No. 84772, 83 FR 64381 (December 14, 2018).

[5] 15 U.S.C. 78(s)(b)(2)(B).

unused functionality by eliminating the Type 2—Retail Order and no longer permit Retail Price Improvement Orders (''RPI'') to be designated as a Mid-Point Liquidity (''MPL'') Order; [6] and (iii) offer additional functionality to RPI Orders by allowing them to include an optional offset.

The Program is intended to attract retail order flow to the Exchange, and allow such order flow to receive potential price improvement.[7] The Program is currently limited to trades occurring at prices equal to and greater than $1.00 a share. The program currently operates on a pilot basis and was set to expire on December 31, 2018, but was recently extended to expire on June 30, 2019.[8]

Under Exchange Rule 7.44–E, a class of market participant called Retail Liquidity Providers (''RLPs'') [9] and non-RLP member organizations are able to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced better than the best protected bid or offer (''PBBO''), called an RPI. When there is an RPI in a particular security priced at least $0.001 better than the PBB or PBO, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier (''RLI''), that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPIs and orders with a working price between the PBBO. The segmentation in the Program allows retail order flow to receive potential price improvement as a result of their order flow being deemed more desirable by liquidity providers.[10]

Expansion of Program's Scope

The Exchange proposes to expand the Program's availability to all securities traded on the Exchange. As more fully set forth in the Notice, the Exchange proposed that in addition to NYSE Arca-listed securities and UTP Securities, the Program would cover securities listed on the New York Stock Exchange LLC (''NYSE''), which are currently excluded from the Program would be covered by the Program. The Exchange states that this expansion would make the Program more similar to the retail price improvement program offered by Cboe BYX Exchange, Inc. (''BYX''), that is available to all securities trading on BYX.[11]

Elimination of Type 2—Retail Orders

Also as more fully set forth in the Notice, the Exchange proposes to amend Rule 7.44–E(k) to remove unused functionality by eliminating the Type 2—Retail Order.[12] As a result, the Exchange would offer a single category of Retail Orders. The Exchange states that it has not received a Retail Order designated as Type 2 and, therefore, proposes to no longer support this functionality.[13]

RPI Orders

In addition, as more fully set forth in the Notice, the Exchange proposes to remove unused functionality by no longer permitting RPI Orders to be designated as MPL Orders, and also proposes to offer additional functionality to RPI Orders by allowing them to include an optional offset.[14]

RPIs are non-displayed and only execute against Retail Orders. RPIs are generally entered at a single limit price, rather than being pegged to the PBBO. One exception is that a RPI Order could also be designated as an MPL Order, in which case the order would be pegged to the midpoint of the PBBO and re-priced as the PBBO changes.

Designation as MPL Orders. The Exchange proposes to remove unused functionality that permits RPI Orders to be designated as MPL Orders. Rule 7.44–E(a)(4)(D) currently states that ''[a]n RPI must be designated as either a Limit Non-Displayed Order or MPL Order, and an order so designated will interact with incoming Retail Orders only and will not interact with either a Type 2—Retail Order Day or Type 2—Retail Order Market that is resting on the NYSE Arca Book.'' The Exchange notes that to date all RPI Orders have been designated as Non-Displayed Limit Orders, not MPL Orders.

As proposed, RPI Orders could no longer be designated as MPL Orders. To effect this change, the Exchange proposes to revise the above-referenced sentence from Rule 7.44–E(a)(4)(D) to provide instead that ''[a]n RPI . . . will interact with incoming Retail Orders only.'' The remaining text of the current rule is no longer necessary because the reference to Non-Displayed Limit Orders is superfluous as RPI Orders by definition are non-displayed and must include a limit price.[15] Further, references to Type 2—Retail Orders are unnecessary because they would no longer be offered by the Exchange, as proposed above.

Optional Offset Functionality. The Exchange proposes to allow RPIs to include an optional offset. Rule 7.44–E(a)(4) would be amended to include new paragraph (a)(4)(C) [16] that would provide that an RPI may include an optional offset, which may be specified up to three decimals. The working price of an RPI to buy (sell) with an offset would be the lower (higher) of the PBB (PBO) plus (minus) the offset or the limit price of the RPI. An RPI with an offset would not be eligible to trade if the working price is below $1.00. If an RPI to buy (sell) with an offset would have a working price that is more than three decimals, the working price would be truncated to three decimals.

RPIs that include an offset would interact with Retail Orders as follows. Assume an RLP enters RPI sell interest with an offset of $0.001 and a limit price of $10.10 while the PBO is $10.11. The RPI could interact with an incoming buy Retail Order at $10.109. If the PBO changes to $10.12, the RPI could interact with an incoming buy Retail Order at $10.119. If, however, the PBO changes again to $10.10, the RPI could not interact with the Retail Order because the price required to deliver the minimum $0.001 price improvement ($10.099) would violate the RLP's limit price of $10.10.

If an RLP otherwise enters an offset greater than the minimum required price improvement and the offset would produce a price that would violate the RLP's limit price, the offset would be applied only to the extent that it respects the RLP's limit price. By way of illustration, assume RPI buy interest is entered with an offset of $0.005 and a limit price of $10.112 while the PBB is at $10.11. The RPI could interact with an incoming sell Retail Order at $10.112, because it would produce the required price improvement without violating the RLP's limit price, but it could not interact above the $10.112 limit price.

The Exchange proposes to make a related change to Rule 7.16–E(f)(5)(C) to specify that, like Pegged Orders and MPL Orders, RPIs with an offset would use the National Best Bid (''NBB'') instead of the PBB as the reference price when a Short Sale Price Test is triggered

[6] Rule 7.31–E(d)(3).

[7] *See* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107) (''RLP Approval Order'').

[8] *See* Securities Exchange Act Release No. 84773 (December 10, 2018), 83 FR 64419 (December 14, 2018).

[9] The Program also allows for RLPs to register with the Exchange. However, any firm can enter RPI orders into the system.

[10] RLP Approval Order, 77 FR at 79528.

[11] *See* Notice at *supra* note 3 at 56891.

[12] *See Id.*

[13] *See Id.*

[14] *See id.* at 56892.

[15] Under Rule 7.44–E(a).

[16] The Exchange proposes to renumber the remaining paragraphs under Rule 7.44–E(a)(4) accordingly.

pursuant to Rule 201 of Regulation SHO.[17]

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[18] to determine whether the proposal should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposal.

Pursuant to Section 19(b)(2)(B) of the Act,[19] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,[20] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and which prohibits the rules of an exchange from being designed to permit unfair discrimination between customers, issuers, brokers, or dealers, and with Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[21]

The Exchange notes that the Program was intended to create additional price improvement opportunities for retail investors by segmenting retail order flow on the Exchange.[22] When the Commission initially approved the Program on a pilot basis, it explained that it would monitor the Program throughout the pilot period for its potential effects on public price discovery and on the broader market structure.[23] The Exchange seeks to modify and expand the Program as the pilot is approaching expiration, prior to providing an analysis of what it considers to be the economic benefits for retail investors and the marketplace flowing from operation of the Program. Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [24] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[25] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[26] The Commission questions whether the proposal to expand and modify the Program prior to Commission consideration of whether to approve the Program, as it has been operating, on a permanent basis is consistent with the Act, particularly given that the Commission has questioned whether similar programs have achieved their stated goals.[27] The Commission believes it is appropriate to institute proceedings to allow for additional consideration and comment on the issues raised herein, any potential response to comments or supplemental information provided by the Exchange, and any additional independent analysis by the Commission. The Commission believes that these issues raise questions as to whether the Exchange has met its burden to demonstrate that the Program, as proposed to be expanded and amended, is consistent with the Act, and specifically, with its requirements that the Program be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[28]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Sections 6(b)(5) and 6(b)(8), or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[29]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by February 21, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by March 7, 2019.

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 ARCA–2018–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2018–77. The 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

[17] 17 CFR 242.201.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(8).

[22] *See* Notice, *supra* note 3 at 56891.

[23] *See* RLP Approval Order, *supra* note 7.

[24] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[25] *See id.*

[26] *See id.*

[27] *See* Securities Exchange Act Release Nos. 84600 (November 15, 2018), 83 FR 58802 (November 21, 2018), 84472 (October 23, 2018), 83 FR 54411 (October 29, 2018), and 84183 (September 18, 2018), 83 FR 48350 (September 24, 2018) (orders instituting proceedings to determine whether to approve or disapprove Pilot Retail Price Improvement Programs of CboeBYX, Nasdaq BX, and NYSE, respectively).

[28] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

[29] Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 publicly available. All submissions should refer to File Number SR–NYSEARCA–2018–77 and should be submitted on or before February 21, 2019. Rebuttal comments should be submitted by March 7, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00481 Filed 1–30–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84959; File No. SR–MRX–2018–41]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 26, 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 December 21, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'' or ''Penny Pilot'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq–100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2018.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2019, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2018, and ending November 30, 2018). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

Lastly, the Exchange proposes a non-substantive change in Supplementary Material .01 to Rule 710 to update ''Market Information Circulars'' to ''Options Trader Alerts'' to reflect current practice.[4]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants. Furthermore, the Exchange's proposal to update ''Market Information Circulars'' to ''Options Trader Alerts'' in Supplementary Material .01 to Rule 710 will bring greater transparency to the Exchange's Rulebook to the benefit of all market participants.

[30] 17 CFR 200.30–3(a)(57) and (58).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 83534 (June 28, 2018), 83 FR 31213 (July 3, 2018) (SR–MRX–2018–22).

[4] Today, the Exchange specifies which options trade in the Penny Pilot Program, and in what increments, in Options Trader Alerts distributed to Members.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) [9] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [11] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

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–MRX–2018–41 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–MRX–2018–41. 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 20549–1090 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–MRX–2018–41 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00471 Filed 1–30–19; 8:45 am]

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[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84981; File No. SR–PHLX–2018–72]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish Rules Governing the Give Up of a Clearing Member by a Member Organization on Exchange Transactions

January 9, 2019.

On November 6, 2018, Nasdaq PHLX LLC filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change to establish rules governing the give up of a Clearing Member by a member organization on Exchange transactions. The proposed rule change was published for comment in the **Federal Register** on November 26, 2018.[3] The Commission has received three comment letters regarding the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it find such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 10, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission pursuant to Section 19(b)(2) of the Act,[6] designates February 24, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–PHLX–2018–72).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2019–00497 Filed 1–30–19; 8:45 am]

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[3] *See* Securities Exchange Act Release No. 84624 (November 19, 2018), 83 FR 60547.

[4] *See* letters to Brent J. Fields, Secretary Commission, from Matthew R. Scott, President, Merrill Lynch Professional Clearing Corp., dated December 7, 2018; Ellen Greene, Managing Director, Capital Markets, SIFMA, dated December 17, 2018; and John P. Davidson, President and Chief Operating Officer, The Options Clearing Corporation, dated December 19, 2018.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84961; File No. SR–Phlx–2018–84]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx Rule 1034

December 26, 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 December 21, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1034 (Minimum Increments)[3] to extend through June 30, 2019 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to rules refer to rules of Phlx, unless otherwise noted.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq–100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2018.[5]

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 83530 (June 28, 2018), 83 FR 31227 (July 3, 2018) (SR–Phlx–2018–50).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the January replacement, trading volume from June 1, 2018 through November 30, 2018 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot (*i.e.,* December) would not be used for purposes of the six-month analysis.

remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to 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, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2019 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2019, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

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–PHLX–2018–84 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–PHLX–2018–84. 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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 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–Phlx–2018–84 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00473 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84936; File No. SR–C2–2018–026]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Penny Pilot Program

December 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2018, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 extend the operation of Penny Pilot Program through June 30, 2019. The text of the proposed rule change is provided below. (additions are *in italics;* deletions are [bracketed])

* * * * *

Rules of Cboe C2 Exchange, Inc.

* * * * *

Rule 6.4. Minimum Increments for Bids and Offers

(a)–(b) No change.

Interpretations and Policies . . .

.01 No change.

.02 The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively traded, multiply listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day following [July 1, 2018] *January 1, 2019.* The Penny Pilot will expire on [December 31, 2018] *June 30, 2019.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on December 31, 2018. The Exchange proposes to extend the Pilot Program until June 30, 2019. The Exchange believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, the Exchange proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[5] and would be added on the second trading day following January 1, 2019. The Exchange will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program. The Exchange notes that it intends to utilize the same parameters to select prospective replacement classes as was originally approved.

The Exchange is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class. The Exchange lastly represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation 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

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following January 1, 2019 would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2018 through November 30, 2018.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change allows for an extension of the Pilot Program for the benefit of market participants. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

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 Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

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–C2–2018–026 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–C2–2018–026. 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 20549–1090 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–C2–2018–026 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2018–28388 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84965; File No. SR–BX–2018–066]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 115

December 26, 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 December 20, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's port fee schedule at Equity 7, Section 115, as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule, at Equity 7, Section 115, to clarify its existing practice for assessing port fees.

Presently, the Exchange assigns ports to customers that request them using the customers' Market Participant Identifiers or ''MPIDs.'' The Exchange assesses ports fees in two ways.

First, for certain port types—*i.e.,* Multicast TotalView-ITCH, TCP ITCH data feed, DROP, and their corresponding disaster recovery ports—the Exchange assigns a port only to the MPID of the customer that requested it. Even if, as a practical matter, others also utilize the port, the Exchange will only bill the MPID of the customer that requested the port. The requesting customer may then, at its discretion, subsequently bill any other users for their shared usage of the port.

Second, for other port types—*i.e.,* OUCH, FIX Trading Ports (FIX and FIX Lite), RASH, and their corresponding disaster recovery ports—the Exchange assigns the port to the MPID of the customer that requested it as well as to any other MPIDs that the requester had specified. In these instances, the Exchange does not only bill the port-requesting MPID. Instead, the Exchange assesses a separate monthly fee to each of the MPIDs it assigned to the port.

The existing port fee schedule, at Section 115, does not explain these nuances of Exchange's port billing practices. Instead, Section 115 states simply, for all port types, that the Exchange will assess fees of certain stated amounts on a per port, per month basis. Although this existing language is accurate, the Exchange believes that it should be more descriptive so as to avoid confusion as to the circumstances in which a customer will incur port fees. The Exchange now proposes to amend Section 115 to provide a more fulsome explanation of its billing practices.

To accomplish this, the Exchange proposes to reorganize its chart of ports and associated fees in the second paragraph of Section 115. Specifically, the Exchange proposes to split this chart into two parts.

The first part of the proposed amended chart will comprise port types for which the Exchange will charge a separate monthly fee to each MPID that it has assigned to a port, *i.e.,* OUCH, FIX Trading Port (FIX and FIX Lite (FLITE), RASH, and disaster recovery ports for OUCH, FIX Trading Port, and RASH. The first part of the chart will include the following preface to explain the Exchange's pertinent billing practice:

For the port types listed immediately below, where a customer has requested that the Exchange assign more than one MPID to a particular port, then the Exchange will assess a separate monthly fee to each MPID assigned to the port.

The Exchange also proposes to revise its description of the price formula for each port type therein from ''$X/port/month'' to ''$X/each MPID assigned to port/month.''

The second part of the proposed amended chart will comprise port types for which the Exchange will charge a monthly fee only to the MPID that requested the port, *i.e.,* Multicast TotalView-ITCH (software based), TCP ITCH data feed, DROP, Trading Ports used in Test Mode, and the disaster recover port for DROP.[3] This part will include the following preface describing the applicable billing practice:

For the port types listed immediately below, the Exchange will assess the monthly fee to the single MPID that requested that particular port. For the ports in this part, the Exchange will maintain its existing price formula: ''$X/port/month.''

The Exchange emphasizes that the foregoing proposal does not make any change to the Exchange's existing port fees other than to clarify its existing practices for assessing them.[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal is reasonable because it clarifies the Exchange's port fee schedule, at Section 115. Although existing Section 115 is an accurate description of the fees that the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] It also includes ports for which the exchange charges no fee—Data Retransmission Ports and other disaster recover ports. The Exchange proposes to add a parenthetical with the word ''Glimpse'' next to Data Retransmission Ports to clarify that that such Ports include access to the ''Glimpse'' product, which allows a subscriber to replay market data from the current trading day.

[4] The Exchange proposes to correct a typographical error in the existing Rule text. Presently, the Rule contains the following footnote: ''†Fees are assessed in full month increments under this section, and thus are not prorated.'' However, the footnote is not associated with anything in the main section of the Rule. This is an unintended error. The Exchange proposes to correct this error by placing the symbol ''†'' immediately after the heading of Section 115.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

charges for ports, it does not describe the nuances of the Exchange's existing practices for assessing port fees in different situations. The proposal will convey these nuances in order to avoid potential confusion among customers as to the circumstances in which they will incur port fees. In particular, the proposal will amend Section 115 to state that, for certain enumerated port types, the Exchange will assess a monthly fee only on the MPID that requested the port, whereas in other enumerated port types, the Exchange will assess a separate fee to the requesting MPID as well as to each additional MPID that the requester asked the Exchange to assign to the same port.

The Exchange believes that this proposal is also equitable in that a more fulsome description of the Exchange's port fee practices will help to avoid any potential confusion as to when and under what circumstances the Exchange will assess a monthly port fee to a customer. The Exchange notes that the proposal merely codifies the existing practices of the Exchange with respect to port fees and will not involve any substantive changes to the fees that the Exchange's customers are paying now.

Finally, the Exchange believes that its proposal is not unfairly discriminatory because, again, the proposal will merely make non-substantive clarifications to Section 115 that will codify the Exchange's existing practices for assessing port fees in different situations. The proposal will not make any changes to the fees that port users pay presently.

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. Insofar as the proposal merely codifies existing practice and makes no changes to the fees that the Exchange charges presently, the Exchange does not expect that the proposal will have any impact on competition whatsoever.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2018–066 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2018–066. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–066, and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00475 Filed 1–30–19; 8:45 am]

BILLING CODE P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84960; File No. SR–NASDAQ–2018–107]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VI, Section 5 of the Rules of The Nasdaq Options Market

December 26, 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 December 21, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 5 (Minimum Increments) [3] of the rules of The Nasdaq Options Market (''NOM'') to extend through June 30, 2019 or the date of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the NASDAQ Options Market (''NOM''), unless otherwise noted.

permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq–100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2018.[5]

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to 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, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2019 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2019, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 83527 (June 26, 2018), 83 FR 31004 (July 2, 2018) (SR–NASDAQ–2018–048).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the January replacement, trading volume from June 1, 2018 through November 30, 2018 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot (*i.e.,* December) would not be used for purposes of the six-month analysis.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

Act [11] and Rule 19b–4(f)(6) [12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

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–NASDAQ–2018–107 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–NASDAQ–2018–107. 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 20549–1090 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–NASDAQ–2018–107* and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00472 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84953; File No. SR–CboeBZX–2018–093]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.5, Minimum Increments, To Extend the Penny Pilot Program

December 26, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to for the BZX Options Market (''BZX Options'') to extend through June 30, 2019, the Penny Pilot Program (''Penny Pilot'') in options classes in certain issues (''Pilot Program'') previously approved by the Commission.[5]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The rules of BZX Options, including rules applicable to BZX Options' participation in the Penny Pilot, were approved on January 26, 2010. *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031). BZX Options commenced operations on February 26, 2010.

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through December 31, 2018, and to provide revised dates for adding replacement issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2018, and ending November 30, 2018).

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on December 31, 2018. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

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 Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

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–CboeBZX–2018–093 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2018–093. This

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–093 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00466 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84966; File No. SR–CboeBZX–2018–089]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the VanEck Vectors AMT-Free Intermediate Municipal Index ETF, VanEck Vectors AMT-Free Long Municipal Index ETF, VanEck Vectors AMT-Free Short Municipal Index ETF, VanEck Vectors High-Yield Municipal Index ETF, and VanEck Vectors Pre-Refunded Municipal Index ETF, Each a Series of the VanEck Vectors ETF Trust, Under Rule 14.11(c)(4) (Index Fund Shares)

December 26, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 list and trade Shares of the following series of the Trust, that do not otherwise meet the standards set forth under BZX Rule 14.11(c)(4)(B)(i)(b), under BZX Rule 14.11(c)(4),[5] which governs the listing and trading of index fund shares based on fixed income securities indices: VanEck Vectors AMT-Free Intermediate Municipal Index ETF; VanEck Vectors AMT-Free Long Municipal Index ETF; VanEck Vectors AMT-Free Short Municipal Index ETF; VanEck Vectors High-Yield Municipal Index ETF and VanEck Vectors Pre-Refunded Municipal Index ETF (each a ''Fund'' and, collectively, the ''Funds'').[6]

The text of the proposed rule change is available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade Shares of the following series of the Trust, that do not otherwise meet the standards set forth under BZX Rule 14.11(c)(4)(B)(i)(b), under BZX Rule 14.11(c)(4),[7] which governs the listing and trading of index fund shares based on fixed income securities indices: VanEck Vectors AMT-Free Intermediate Municipal Index ETF; VanEck Vectors AMT-Free Long Municipal Index ETF; VanEck Vectors AMT-Free Short Municipal Index ETF; VanEck Vectors High-Yield Municipal Index ETF and VanEck Vectors Pre-Refunded

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission approved BZX Rule 14.11(c) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[6] The Exchange notes that the Commission previously approved a proposal to list and trade the Shares on Arca. *See* Securities Exchange Act Release No. 82295 (December 12, 2017), 82 FR 60056 (December 18, 2017) (SR–NYSEArca–2017–56) (the ''Prior Proposal''). This proposal is substantively identical to the Prior Proposal as it relates to the Funds and the Shares and the issuer represents that all material representations contained within the Prior Proposal remain true. As further described below, the Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares.

[7] The Commission approved BZX Rule 14.11(c) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

Municipal Index ETF (each a ''Fund'' and, collectively, the ''Funds'').[8]

The Exchange notes that the Shares are currently listed on Arca and the Shares are already trading on the Exchange pursuant to unlisted trading privileges, as provided in Rule 14.11(j).

The Shares are offered by the Trust, which was established as a Delaware statutory trust on March 15, 2001. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N–1A (''Registration Statement'') with the Commission.[9] All statements and representations made in this filing regarding (a) the description of each Fund's index, portfolio, or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

Description of the Shares and the Funds

Van Eck Associates Corporation is the investment adviser (''Adviser'') to the Funds.[10] The Adviser also serves as the administrator for the Funds (the ''Administrator''). The Bank of New York Mellon serves as the custodian (''Custodian'') and transfer agent (''Transfer Agent'') for the Funds. Van Eck Securities Corporation (the ''Distributor'') is the distributor of the Shares. Barclays Inc. is the index provider (''Index Provider'').

VanEck Vectors AMT-Free Intermediate Municipal Index ETF

According to its prospectus, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index. The Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated intermediate term tax-exempt bond market.

As of November 30, 2018, the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index included 17,860 component fixed income municipal bond securities from issuers in 53 different states or U.S. territories. The most heavily weighted security in the index represented less than 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 0.77% of the total weight of the index. Approximately 9.71% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $355,526,745,016 and the average dollar amount outstanding of issues in the index was approximately $19,906,313.

Under normal market conditions, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index.

Index Overview

At least 90% of the weight of the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index will be comprised of securities that that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

VanEck Vectors AMT-Free Long Municipal Index ETF

According to its prospectus, the VanEck Vectors AMT-Free Long Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Long Continuous Municipal Index. The Bloomberg Barclays AMT-Free Long Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated long-term tax-exempt bond market.

As of November 30, 2018, the Bloomberg Barclays AMT-Free Long Continuous Municipal Index included

[8] The Exchange notes that the Commission previously approved a proposal to list and trade the Shares on Arca. *See* Securities Exchange Act Release No. 82295 (December 12, 2017), 82 FR 60056 (December 18, 2017) (SR–NYSEArca–2017–56) (the ''Prior Proposal''). This proposal is substantively identical to the Prior Proposal as it relates to the Funds and the Shares and the issuer represents that all material representations contained within the Prior Proposal remain true. As further described below, the Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares.

[9] *See* Registration Statement on Form N–1A for the Trust, dated September 1, 2018 (File Nos. 333–123257 and 811–10325). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 28021 (October 24, 2007) (File No. 812–13426).

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with all applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

8,152 component fixed income municipal bond securities from issuers in 52 different states or U.S. territories. The most heavily weighted security in the index represented 0.27% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 1.24% of the total weight of the index. Approximately 13.96% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $291,429,759,251and the average dollar amount outstanding of issues in the index was approximately $3,574,949,480.

Under normal market conditions, the VanEck Vectors AMT-Free Long Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Long Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Long Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT- Free Long Continuous Municipal Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open- end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Long Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Long Continuous Municipal Index.

Index Overview

At least 90% of the weight of the Bloomberg Barclays AMT-Free Long Continuous Municipal Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

VanEck Vectors AMT-Free Short Municipal Index ETF

According to its prospectus, the VanEck Vectors AMT-Free Short Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Short Continuous Municipal Index. The Bloomberg Barclays AMT-Free Short Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated short-term tax-exempt bond market.

As of November 30, 2018, the Bloomberg Barclays AMT-Free Short Continuous Municipal Index included 7,482component fixed income municipal bond securities from issuers in 48 different states or U.S. territories. The most heavily weighted security in the index represented approximately .47% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.14% of the total weight of the index. Approximately 17.16% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $167,594,060,156 and the average dollar amount outstanding of issues in the index was approximately $22,399,634.

Under normal market conditions, the VanEck Vectors AMT-Free Short Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Short Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Short Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT-Free Short Continuous Municipal Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open- end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Short Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Short Continuous Municipal Index.

Index Overview

At least 90% of the weight of the Bloomberg Barclays AMT-Free Short Continuous Municipal Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

VanEck Vectors High-Yield Municipal Index ETF

According to its prospectus, the VanEck Vectors High-Yield Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays Municipal Custom High Yield Composite Index. The Bloomberg Barclays Municipal Custom High Yield Composite Index is a market size weighted index composed of publicly traded municipal bonds that cover the U.S. dollar denominated high yield long-term tax-exempt bond market. The Bloomberg Barclays Municipal Custom High Yield Composite Index is calculated using a market value weighting methodology, provided that the total allocation to issuers from each individual territory of the United States (including Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands) does not exceed 4%. The Bloomberg Barclays Municipal Custom High Yield Composite Index tracks the high yield municipal bond market with a 75% weight in non-investment grade municipal bonds and a targeted 25% weight in Baa/BBB rated investment grade municipal bonds.

As of November 30, 2018, the Bloomberg Barclays Municipal Custom High Yield Composite Index included 6,557component fixed income municipal bond securities from issuers in 56 different states or U.S. territories. The most heavily weighted security in the index represented approximately 1.14% of the total weight of the index and the aggregate weight of the top five

most heavily weighted securities in the index represented approximately 4.03% of the total weight of the index. Approximately 22.52% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $308,369,566,945 and the average dollar amount outstanding of issues in the index was approximately $47,029,063.

Under normal market conditions, the VanEck Vectors High-Yield Municipal Index ETF will invest at least 80% of its total assets in securities that comprise the Bloomberg Barclays Municipal Custom High Yield Composite Index. With respect to the remaining 20% of its assets, the VanEck Vectors High-Yield Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays Municipal Custom High Yield Composite Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open- end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors High-Yield Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays Municipal Custom High Yield Composite Index.

Index Overview

The Bloomberg Barclays Municipal Custom High Yield Composite Index is comprised of three total return, market size weighted benchmark indices with weights as follows: (i) 50% weight in Muni High Yield/$100 Million Deal Size Index, (ii) 25% weight in Muni High Yield/Under $100 Million Deal Size Index, and (iii) 25% weight in Muni Baa Rated/$100 Million Deal Size Index. At least 90% of the weight of the Muni High Yield/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of at least $100 million. At least 90% of the weight of the Muni High Yield/Under $100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of under $100 million but over $20 million. At least 90% of the weight of the Muni Baa Rated/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $100 million.

VanEck Vectors Pre-Refunded Municipal Index ETF

According to its prospectus, the VanEck Vectors Pre-Refunded Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index. The Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated tax-exempt bond market. The Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index is comprised of pre-refunded and/or escrowed-to-maturity municipal bonds.

As of November 30 2018, the Bloomberg Barclays Municipal Pre-Refunded Treasury-Escrowed Index included 3,076 component fixed income municipal bond securities from issuers in 45 different states or U.S. territories. The most heavily weighted security in the index represented approximately 0.54% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.27% of the total weight of the index. Approximately 10.46% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $77,017,953,117 and the average dollar amount outstanding of issues in the index was approximately $25,038,346.

Under normal market conditions, the VanEck Vectors Pre-Refunded Municipal Index ETF will invest at least 80% of its total assets in securities that comprise the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index. With respect to the remaining 20% of its assets, the VanEck Vectors Pre-Refunded Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors Pre-Refunded Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index.

Index Overview

At least 90% of the weight of the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

Based on the characteristics of each index as described above, the Exchange believes it is appropriate to facilitate the listing and trading of the Funds. Each index underlying the Funds satisfies all of the generic listing requirements for the Funds based on a fixed income index, except for the minimum principal amount outstanding requirement of BZX Rule 14.11(c)(4)(B)(i)(b). A fundamental purpose behind the minimum principal amount outstanding requirement is to ensure that component securities of an index are sufficiently liquid such that the potential for index manipulation is reduced.

As discussed above, the Exchange believes that each index underlying the Funds is sufficiently broad-based to deter potential manipulation. Each index underlying the Funds currently includes, on average, more than 10,012 component securities. Whereas the generic listing rules require that an

index contain securities from a minimum of 13 non-affiliated issuers,[11] each index underlying the Funds currently includes securities issued by municipal entities in at least 45 states or U.S. territories. Further, whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index,[12] no single security currently represents more than approximately 1.5% of the weight of any index underlying the Funds. Similarly, the aggregate weight of the five most heavily weighted securities in each index does not exceed approximately 5%. The Exchange believes that this significant diversification and the lack of concentration among constituent securities provides a strong degree of protection against index manipulation.

On a continuous basis, each index underlying a Fund will (i) contain at least 500 component securities and (ii) comply with the parameters described under the heading ''*Index Overview*'' contained in the description of its related Fund set forth above.[13] In addition, the Exchange represents that: (1) Except for BZX Rule 14.11(c)(4)(B)(i)(b), each index currently satisfies all of the generic listing standards under BZX Rule 14.11(c)(4); (2) the continued listing standards under BZX Rule 14.11(c) applicable to index fund shares shall apply to the Shares of each Fund; and (3) the issuer of each Fund is required to comply with Rule 10A–3 [14] under the Act for the initial and continued listing of the shares of each Fund. In addition, the Exchange represents that the Shares of the Funds will comply with all other requirements applicable to index fund shares including, but not limited to, requirements relating to the dissemination of key information such as the value of the Indices and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to index fund shares and the orders approving such rules.

The current value for each index underlying the Funds is widely disseminated by one or more major market data vendors at least once per day. The IIV for shares of each Fund is disseminated by one or more major market data vendors, updated at least every 15 seconds during the Exchange's Regular Trading Hours [15]. In addition, the portfolio of securities held by each Fund is disclosed daily on each Fund's website. Further, the website for each Fund will contain the applicable fund's prospectus and additional data relating to net asset value (''NAV'') and other applicable quantitative information. The Exchange has obtained a representation from the issuer that the applicable NAV per share will be calculated daily will be made available to all market participants at the same time. None of the indices underlying the Funds is maintained by a broker-dealer.

Further, the Exchange's existing rules require that the Funds notify the Exchange of any material change to the methodology used to determine the composition of the index. Therefore, if the methodology of an index underlying the Funds was changed in a manner that would materially alter its existing composition, the Exchange would have advance notice and would evaluate the index, as modified, to determine whether it was sufficiently broad-based and well diversified.

Price information regarding municipal bonds, convertible securities, and non-exchange traded assets, including investment companies, derivatives, money market instruments, repurchase agreements, structured notes, participation notes, and when-issued securities is available from third party pricing services and major market data vendors. For exchange-traded assets, including investment companies, futures, warrants, and options, such intraday information is available directly from the applicable listing exchange.

Availability of Information

Each Fund's website is publicly available and includes a form of the prospectus for the Funds that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Funds will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites. On each business day, before commencement of trading in Shares during Regular Trading Hours on the Exchange, each Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets in the daily disclosed portfolio held by the Funds that formed the basis for each Fund's calculation of NAV at the end of the previous business day. The daily disclosed portfolio will include, as applicable: The ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in each Fund's portfolio. The website and information will be publicly available at no charge. The value, components, and percentage weightings of each of the Indices will be calculated and disseminated at least once daily and will be available from major market data vendors. Rules governing the Indices are available on Barclays' website and in each respective Fund's prospectus.

In addition, for each Fund, an estimated value, defined in BZX Rule 14.11(c)(6)(A) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of each Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the daily disclosed portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's

[11] See BZX Rule 14.11(c)(4)(B)(i)(e).

[12] See BZX Rule 14.11(c)(4)(B)(i)(d).

[13] The Commission has previously approved a proposed rule change relating to the listing and trading on the Exchange of a series of Funds based on a municipal bond index that did not satisfy BZX Rule 14.11(c)(4)(B)(i)(b) provided that such municipal bond index contained at least 500 component securities on a continuous basis. *See* Securities Exchange Act Release No. 78329 (July 14, 2016), 81 FR 47217 (July 20, 2016) (SR–BatsBZX–2016–01) (order approving proposed rule change relating to the listing and trading of Shares of the Following Series of VanEck Vectors ETF Trust: VanEck Vectors AMT-Free 6–8 Year Municipal Index ETF; VanEck Vectors AMT-Free 8–12 Year Municipal Index ETF; and VanEck Vectors AMT-Free 12–17 Year Municipal Index ETF).

[14] 17 CFR 240.10A–3.

[15] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

Regular Trading Hours. In addition, the quotations of certain of each Fund's holdings may not be updated during U.S. trading hours if updated prices cannot be ascertained.

The dissemination of the Intraday Indicative Value, together with the daily disclosed portfolio, will allow investors to determine the value of the underlying portfolio of the Funds on a daily basis and provide a close estimate of that value throughout the trading day.

Quotation and last sale information for the Shares of each Fund will be available via the CTA high speed line. Trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system. For exchange-traded assets, including investment companies, futures, warrants, and options, such intraday information is available directly from the applicable listing exchange.

Initial and Continued Listing

The Shares of each Fund will conform to the initial and continued listing criteria under BZX Rule 14.11(c)(4), except for those set forth in 14.11(c)(4)(B)(i)(b). The Exchange represents that, for initial and/or continued listing, the Funds and the Trust must be in compliance with Rule 10A–3 under the Act. [16] A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share for each Fund will be calculated daily and will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time and has the appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures for the Fund under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares via the ISG, from other exchanges that are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[17] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange-traded investment companies, futures, options, and warrants from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening [18] and After Hours Trading Sessions [19] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. Members purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Funds and the applicable NAV calculation time for the Shares. The

[16] *See* 17 CFR 240.10A–3.

[17] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the disclosed portfolio for the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[18] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[19] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

Information Circular will disclose that information about the Shares of the Funds will be publicly available on the Funds' website. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in each Fund's Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [20] in general and Section 6(b)(5) of the Act [21] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest because, in addition to the reasons laid out above, the Commission has previously approved the Shares to list and trade on Arca and this proposal is substantively identical to the Prior Proposal as it relates to the Funds and the Shares and all material representations contained within the Prior Proposal remain true.

The Exchange also believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares of each Fund will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BZX Rule 14.11(c). The Exchange believes that its surveillances, which generally focus on detecting securities trading outside of their normal patterns which could be indicative of manipulative or other violative activity, and associated surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares of each Fund with other markets or other entities that are members of the Intermarket Surveillance group (''ISG''), and may obtain trading information regarding trading in the Shares from such markets or entities. FINRA can also access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. The Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's TRACE. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange-traded investment companies, futures, options, and warrants from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

As discussed above, the Exchange believes that each index underlying the Funds is sufficiently broad-based to deter potential manipulation. Each index underlying the Funds currently includes, on average, more than 10,012 component securities. Whereas the generic listing rules require that an index contain securities from a minimum of 13 non-affiliated issuers,[22] each index underlying the Funds currently includes securities issued by municipal entities in at least 45 states or U.S. territories. Further, whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index,[23] no single security currently represents more than approximately 1.5% of the weight of any index underlying the Funds. Similarly, the aggregate weight of the five most heavily weighted securities in each index does not exceed approximately 5%.

On a continuous basis, each index underlying a Fund will (i) contain at least 500 component securities and (ii) comply with the parameters described under the heading ''Requirement for Index Constituents'' contained in the description of its related Fund set forth above.

The value, components, and percentage weightings of each of the Indices will be calculated and disseminated at least once daily and will be available from major market data vendors. In addition, the portfolio of securities held by the Funds will be disclosed on the Funds' website at *www.vaneck.com/etfs.* The intraday indicative value for Shares of the Funds will be disseminated by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. The Adviser represents that bonds that share similar characteristics, as described above, tend to trade similarly to one another; therefore, within these categories, the issues may be considered fungible from a portfolio management perspective. Within a single municipal bond issuer, Adviser represents that separate issues by the same issuer are also likely to trade similarly to one another.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. The Funds' portfolio holdings will be disclosed on the Funds' website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. The current value of each of the Indices will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Funds will include the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of each Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted. If the IIV of any of the Funds or value of the Indices are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs.

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(5).

[22] See BZX Rule 14.11(c)(4)(B)(i)(e).

[23] See BZX Rule 14.11(c)(4)(B)(i)(d).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of exchange-traded funds that holds municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information in the Shares and the underlying shares in exchange-traded investment companies, futures, options, and warrants via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the IIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the transfer from Arca and listing of additional exchange-traded products on the Exchange, which will enhance competition among listing venues, to the benefit of issuers, investors, and the marketplace more broadly.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [24] and subparagraph (f)(6) of Rule 19b–4 thereunder.[25]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [26] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [27] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that waiver of the 30-day operative delay would allow the Funds to transfer listing to the Exchange as soon as is practicable and minimize the amount of time that the Funds' listing venue will be in transition. Additionally, the Exchange states that waiver will allow the Funds to be listed on the Exchange in December 2018, which will allow the Funds to have lower listing fees on a going forward basis, and to avoid paying Arca's listing fees for 2019, which will be applied at the beginning of January 2019. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[28]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–089 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2018–089. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–089 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00476 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[26] 17 CFR 240.19b–4(f)(6).

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84957; File No. SR–ICEEU–2018–010]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Amendments to the ICE Clear Europe CDS Risk Policy, CDS Clearing Back-Testing Policy and CDS Stress-Testing Policy

December 26, 2018.

On November 13, 2018, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify and update certain provisions of its risk policies related to CDS Contracts (SR–ICEEU–2018–010). The proposed rule change was published for comment in the **Federal Register** on December 4, 2018.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is Janury 18, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change, in which ICE Clear Europe proposes to modify and update certain provisions of its risk policies related to CDS Contracts. The Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider ICE Clear Europe's proposed rule change.

Accordingly, pursuant to Section 19(b)(2) [5] of the Act, and for the reasons discussed above, the Commission designates March 4, 2019, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICEEU–2018–010).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00469 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 84667 (Nov. 28, 2018), 83 FR 62638 (Dec. 4, 2018) (SR–ICEEU–2018–010).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84987; File No. SR–NYSEArca–2018–82]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Regarding Certain Changes Relating to Investments of the PGIM Active High Yield Bond ETF

January 17, 2019.

On November 16, 2018, NYSE Arca, Inc. filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change with respect to certain changes regarding the investments of the PGIM Active High Yield Bond ETF, a series of PGIM ETF Trust. The proposed rule change was published for comment in the **Federal Register** on December 6, 2018.[3] The Commission has received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it find such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 20, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 6, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2018–82).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00501 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84696 (November 30, 2018), 83 FR 62915.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84984; File No. SR–NYSE–2018–46]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend the Listed Company Manual for Acquisition Companies To Reduce the Continued Listing Standards for Public Stockholders From 300 to 100 and To Enable the Exchange To Exercise Discretion To Allow Acquisition Companies a Reasonable Time Period Following a Business Combination To Demonstrate Compliance With the Applicable Quantitative Listing Standards

January 15, 2019.

I. Introduction

On October 1, 2018, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Listed Company Manual (''Manual'') for Special Purpose Acquisition Companies [3] (''SPACs'') to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Throughout this order, we have used the term ''SPAC'' or ''SPACs.'' These terms have the same meaning as ''Acquisition Company,'' which is the term used by the Exchange in its current proposed rule filing.

reduce the minimum number of public stockholders required for continued listing from 300 to 100, and to enable the Exchange to exercise discretion to allow SPACs a reasonable time period following a business combination to demonstrate compliance with the applicable quantitative listing standards. The proposed rule change was published in the **Federal Register** on October 18, 2018.[4] The Commission received one comment letter on the proposal.[5] On November 29, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to January 16, 2019.[6] This order institutes proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposal.[7]

II. Description of the Proposal and Summary of Comment

A. Background on SPACs

A SPAC is a special purpose company whose business plan is to raise capital in an initial public offering (''IPO'') and, within a specific period of time, engage in a merger or acquisition with one or more unidentified companies. Among other things, a SPAC must keep 90% of the gross proceeds of its IPO in an escrow account through the date of a business combination.[8] The SPAC must complete one or more business combinations, having an aggregate fair market value of at least 80% of the value of the escrow account, within 36 months of the effectiveness of the IPO registration statement.[9] Additionally, public shareholders who object to a business combination have the right to convert their common stock into a pro rata share of the funds held in escrow.[10] Following a business combination, the combined company must meet the Exchange's requirements for initial listing of an operating company.[11]

B. Description of the Proposed Changes to SPAC Listing Standards

The Exchange has proposed two changes to its SPAC listing requirements. First, the Exchange has proposed to reduce the minimum number of public stockholders required for continued listing of a SPAC, prior to consummation of a business combination, from 300 to 100.[12] According to the Exchange, SPACs have difficulty demonstrating compliance with the 300 public stockholders requirement because there is limited retail investor interest in SPACs, and those who do invest in SPACs tend to hold their shares until a transaction is announced. The Exchange also stated its belief that the number of stockholders is less relevant for SPACs than for operating companies, because ''the price of [a SPAC] is based primarily on the value of the funds it holds in trust, and the [SPAC]'s shareholders have the right to redeem their shares for a pro rata share of that trust in conjunction with the Business Combination.'' For these reasons, NYSE asserted that SPACs, historically, ''trade close to the value in the trust, even when they have had few shareholders,'' and that these ''trading patterns suggest that the low number of shareholders has not resulted in distorted prices.'' [13]

Second, the Exchange has proposed to provide itself discretion to allow SPACs a reasonable time period following a business combination to demonstrate compliance with the applicable quantitative listing standards for an operating company, rather than requiring SPACs to immediately comply with such standards. These listing standards include: (1) A price per share of at least $4.00; (2) a global market capitalization of at least $150,000,000; (3) an aggregate market value of publicly-held shares of at least $40,000,000; and (4) other quantitative requirements set forth in Section 102.01A of the Manual, including the requirement to maintain a minimum of 400 round lot holders and 1,100,000 publicly held shares.[14] The Exchange has proposed to delete the language in Section 802.01B of the Manual requiring the combined entity to meet these listing standards ''immediately upon consummation of the Business Combination.'' The Exchange represented that the purpose of this proposed amendment is to ''allow the Exchange to exercise discretion to allow companies a reasonable period of time following a business combination to demonstrate compliance with the applicable quantitative listing standards, including the shareholders requirement.'' According to the Exchange, it can be difficult for a company, once listed, to obtain evidence demonstrating the number of its shareholders, because many accounts are held in street name, so companies must seek this information from broker-dealers or their third-party agents. The Exchange stated that the process of identifying shareholders is especially burdensome for SPACs at the time of the business combination, because SPAC shareholders have the right to request redemption of their securities until immediately before consummation of the business combination.

C. Summary of Comment Letter

The Commission received one comment letter on the proposal.[15] The commenter stated it could not support the current proposal as submitted ''because it does not provide sufficient information for us to make a determination as to whether our members and the capital markets would benefit from the proposed changes.'' The commenter referenced its prior comments on similar proposals from the Exchange and Nasdaq, both of which were subsequently withdrawn.[16] The commenter noted that the proposed reduction in the minimum number of holders from 300 to 100 is far more modest than eliminating it outright, as was proposed in the prior proposals, but believed that additional information would be helpful in determining

[4] *See* Securities Exchange Act Release No. 84420 (October 12, 2018), 83 FR 52854 (October 18, 2018) (''Notice'').

[5] *See* Letter to Secretary, Commission, dated November 8, 2018, from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors (''CII Letter'').

[6] *See* Securities Exchange Act Release No. 84680 (November 29, 2018), 83 FR 62942 (December 6, 2018).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Section 102.06 of the Manual.

[9] *Id.*

[10] *See* Section 102.06(b) of the Manual.

[11] This includes the requirement to maintain a minimum of 400 round lot holders. *See* Sections 102.01A and 802.01B(ii) of the Manual.

[12] Public stockholders exclude holders that are directors, officers, or their immediate families and holders of other concentrated holdings of 10% or more. *See* Section 802.01B(ii) of the Manual.

[13] The Exchange also articulated some other arguments including that Exchange Traded Funds are ''somewhat similar'' and do not have as a high a continued listing shareholder requirements as SPACs. *See* Notice, *supra* note 4.

[14] *See* Section 802.01B of the Manual. *See also* note 13, *supra*.

[15] *See supra* note 5.

[16] *See* SR–NYSE–2017–53 (proposal to, among other things, lower the initial holders requirement from 300 to 150 round lot holders and to eliminate the continued holders requirement from 300 public stockholders to zero, and to impose a 30-day deadline to demonstrate compliance with certain initial listing requirements following a business combination). The Exchange filed the proposal on November 16, 2017. The Exchange withdrew the proposal on June 21, 2018, after the Commission instituted proceedings to determine whether to approve or disapprove the proposal. *See* Securities Exchange Act Release Nos. 82180 (November 30, 2017), 82 FR 57632 (December 06, 2017); 82531 (January 18, 2018), 83 FR 3371 (January 24, 2018); 82804 (March 05, 2018), 83 FR 10530 (March 09, 2018); 83355 (May 31, 2018), 83 FR 26331 (June 06, 2018); and 83570 (June 29, 2018), 83 FR 31628 (July 6, 2018). *See also* SR–Nasdaq–2017–087, Order Instituting Proceedings, Securities Exchange Act Release No. 82478 (January 9, 2018), 83 FR 2278 (January 16, 2018)

whether the proposal would benefit investors.[17]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2018–46 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.[18] Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act[19] and, in particular, with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of free and open market and a national market system, and, in general, to protect investors and the public interest.[20]

The Commission has consistently recognized the importance of the minimum number of holders and other similar requirements in exchange listing standards. For example, the Commission has repeatedly stated in approving exchange listing requirements, including NYSE's original SPAC listing standards, that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to financial markets and the investing public.[21] Among other things, such listing standards help ensure that exchange listed securities have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.

NYSE proposes to lower the minimum number of holders required for continued listing of a SPAC, in the period prior to consummation of a business combination, from 300 public holders to 100 public holders. In support of its proposal, NYSE asserts, among other things, that SPACs often have difficulty demonstrating compliance with the minimum number of holders requirements because there is limited retail investor interest in them, and that this requirement is less relevant for SPACs because they historically trade close to the value of the funds held in trust. The Commission, however, notes that NYSE has not provided any supporting evidence that SPACs have more difficulty complying with the existing minimum number of holders requirements than other listed companies. Further, the Commission does not believe that it is clear from NYSE's proposal how the historic SPAC trading patterns cited by NYSE bear on the role of the minimum number of holders requirements in maintaining fair and orderly markets, particularly since NYSE's observation was made when the current minimum number of holder requirements were in place.

The Exchange also proposes to provide itself discretion to allow SPACs a reasonable time period following a business combination to demonstrate compliance with the applicable quantitative listing standards for an operating company, rather than requiring SPACs to immediately comply with such standards. While the NYSE's current listing standards require a SPAC to have at least 300 public holders prior to the business combination, NYSE's proposal would reduce that requirement to as few as 100 public holders. Following consummation of the business combination, the SPAC would be required to have at least 400 round lot holders. It is not clear from NYSE's proposal that such a structure is workable, or how a listed SPAC would ensure it is in a position to sufficiently increase its number of holders, even within the ''reasonable time period'' contemplated by NYSE. Finally, the Exchange offered no explanation as to why SPACs require additional time, following consummation of the business combination, to meet the all of the other applicable quantitative listing standards for operating companies, including those relating to share price, global market capitalization, and the market value of publicly-held shares.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [22] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[23] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[24]

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.

V. Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provisions of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[25]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by February 21, 2019. Any

[17] *See* CII Letter at 2–3.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *See, e.g.,* Securities Exchange Act Release Nos. 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (stating that the distribution standards, which includes exchange holder requirements ''. . . should help to ensure that the [SPACs'] securities have sufficient public float, investor base, and liquidity to promote fair and orderly markets); 58228 (July 25, 2008), 73 FR 44794 (July 31, 2008).

[22] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[23] *See id.*

[24] *See id.*

[25] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Congr., 1st Sess. 30 (1975).

person who wishes to file a rebuttal to any other person's submission must file that rebuttal by March 7, 2019. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment, including where relevant, any specific data, statistics, or studies, on the following:

1. Would the proposal ensure that a sufficient liquid market exists for the shares of SPACs on the Exchange? Why or why not?

2. With a lower requirement of 100 public stockholders, would the shares of SPACs still trade close to their redemption value as the Exchange has stated? If yes, would that trading pattern continue after an announcement of a business combination?

3. With a lower requirement of 100 public stockholders, could shares of SPACs be more prone to manipulation, either post-IPO or at the time of the business combination announcement (but before consummation of the business combination)?

4. Is there additional support for the claims that SPACs trade consistently as stated in the proposal? If so, what specific data should be provided, reviewed, and analyzed? How many SPACs have not been able to meet the Exchange's minimum number of public stockholders requirement pre-business combination, and how many stockholders did these SPACs have? How many SPACs have not been able to meet the applicable minimum number holders and other requirements immediately upon consummation of the business combination, and how were they deficient? How many of these SPACs have been delisted for failing to meet the applicable listing standards, and how long did they trade on the Exchange prior to delisting?

5. The Exchange asserts that obtaining evidence demonstrating the number of shareholders after a business combination is ''especially burdensome for [SPACs].'' The Commission notes that the process of obtaining the number of shareholders is similar for all listed companies. Do commenters think SPACs are particularly burdened by this process and, if so, why?

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–2018–46 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–2018–46. 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–2018–46 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00499 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84989; File No. SR–BOX–2018–24]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC Options Facility To Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network

January 25, 2019.

On July 19, 2018, BOX Options Exchange LLC (''BOX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the BOX fee schedule to establish certain connectivity fees and reclassify its high speed vendor feed as a port fee. The proposed rule change was published in the **Federal Register** on August 2, 2018.[3] The Commission received one comment letter on the proposal urging the Commission to suspend the proposal and institute proceedings.[4] BOX submitted a response to comments on September 12, 2018.[5] On September 17, 2018, the Division of Trading and Markets (the ''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending the proposed rule change pursuant to Section 19(b)(3)(C) of the Act[6] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change (''Order Instituting Proceedings'').[8] The Commission thereafter received one additional comment letter on the proposal.[9]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83728 (July 27, 2018), 83 FR 37853.

[4] *See* letter from Tyler Gellasch, Executive Director, The Healthy Markets Association, to Brent J. Fields, Secretary, Commission, dated August 23, 2018 (''Healthy Markets Letter'').

[5] *See* letter from Lisa J. Fall, President, BOX, to Brent J. Fields, Secretary, Commission, dated September 12, 2018.

[6] 15 U.S.C. 78s(b)(3)(C).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 84168 (September 17, 2018), 83 FR 47947 (September 21, 2018).

[9] *See* letter from Theodore R. Lazo, Managing Director and Associate General Counsel, and Ellen

On September 19, 2018, pursuant to Rule 430 of the Commission's Rules of Practice,[10] the Exchange filed a notice of intention to petition for review of the Order Instituting Proceedings. Such action preserved the Exchange's right to file a petition to review the Division's action by delegated authority and, pursuant to Rule 431(e) of the Commission's Rules of Practice, triggered an automatic stay of the action by delegated authority, which reinstated the Exchange's authority to charge the connectivity fees at issue.[11] On September 26, 2018, the Exchange filed a petition for review of the Order Instituting Proceedings.[12] On November 16, 2018, the Commission granted the Exchange's Petition and discontinued the automatic stay of the delegated action,[13] thereby suspending the Exchange's ability to charge the connectivity fees at issue while the Commission conducts proceedings to consider the proposed fees' consistency with the Exchange Act. In its order granting the Petition, the Commission also ordered that any party or other person could file a statement by November 27, 2018, in support or in opposition to the action made by delegated authority.[14] The Commission received two such statements from the Exchange.[15] Section 19(b)(2) of the Act [16] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. In this case, the proposed rule change was published for notice and comment in the **Federal Register** on August 2, 2018.[17] January 29, 2019, is 180 days from that date, and March 30, 2019, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[18] designates March 29, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–BOX–2018–24).[19]

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2019–00508 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

Greene, Managing Director, Financial Services Operations, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission, dated October 15, 2018.

[10] 17 CFR 201.430.

[11] 17 CFR 201.431(e).

[12] *See* letter from Amir Tayrani, Partner, Gibson, Dunn & Crutcher LLP, dated September 19, 2018; Petition for Review of Order Temporarily Suspending BOX Exchange LLC's Proposal to Amend the Fee Schedule on BOX Market LLC, dated September 26, 2018 (''Petition''). Pursuant to Rule 431(e) of the Commission's Rules of Practice, a notice of intention to petition for review results in an automatic stay of the action by delegated authority. 17 CFR 201.431(e).

[13] *See* Securities Exchange Act Release No. 84614 (November 16, 2018), 83 FR 59432 (November 23, 2018).

[14] *See id.*

[15] *See* letter from Lisa J. Fall, President, BOX, to Brent J. Fields, Secretary, Commission, to Brent J. Fields, Secretary, Commission, dated December 7, 2018; and letter from Amir C. Tayrani, Gibson, Dunn & Crutcher LLP, to Brent J. Fields, Secretary, Commission, dated December 10, 2018 (submitted on behalf of the Exchange).

[16] 15 U.S.C. 78s(b)(2).

[17] *See supra* note 3.

[18] 15 U.S.C. 78s(b)(2).

[19] The Commission notes that March 30, 2019, is a Saturday and is, therefore, designating March 29, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84955; File No. SR–GEMX–2018–44]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 26, 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 December 21, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'' or ''Penny Pilot'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq–100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2018.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2019, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity for the most recent six month

[3] *See* Exchange Act Release No. 83533 (June 28, 2018), 83 FR 31233 (July 3, 2018) (SR–GEMX–2018–23).

period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2018, and ending November 30, 2018). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

Lastly, the Exchange proposes a non-substantive change in Supplementary Material .01 to Rule 710 to update ''Market Information Circulars'' to ''Options Trader Alerts'' to reflect current practice.[4]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants. Furthermore, the Exchange's proposal to update ''Market Information Circulars'' to ''Options Trader Alerts'' in Supplementary Material .01 to Rule 710 will bring greater transparency to the Exchange's Rulebook to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

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–GEMX–2018–44 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–GEMX–2018–44. 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

[4] Today, the Exchange specifies which options trade in the Penny Pilot Program, and in what increments, in Options Trader Alerts distributed to Members.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 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–GEMX–2018–44 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00468 Filed 1–30–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84967; File No. SR–Phlx–2018–83]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 3

December 26, 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 December 20, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's port fee schedule at Equity 7, Section 3, as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule, at Equity 7, Section 3, to clarify its existing practice for assessing port fees.

Presently, the Exchange assigns ports to customers that request them using the customers' Market Participant Identifiers or ''MPIDs.'' The Exchange assesses ports fees in two ways.

First, for certain port types—*i.e.,* Multicast TotalView-ITCH, TCP ITCH data feed, DROP, and their corresponding disaster recovery ports—the Exchange assigns a port only to the MPID of the customer that requested it. Even if, as a practical matter, others also utilize the port, the Exchange will only bill the MPID of the customer that requested the port. The requesting customer may then, at its discretion, subsequently bill any other users for their shared usage of the port.

Second, for other port types—*i.e.,* OUCH, FIX Trading Ports (FIX and FIX Lite), RASH, and their corresponding disaster recovery ports—the Exchange assigns the port to the MPID of the customer that requested it as well as to any other MPIDs that the requester had specified. In these instances, the Exchange does not only bill the port-requesting MPID. Instead, the Exchange assesses a separate monthly fee to each of the MPIDs it assigned to the port.

The existing port fee schedule, at Section 3, does not explain these nuances of Exchange's port billing practices. Instead, Section 3 states simply, for all port types, that the Exchange will assess fees of certain stated amounts on a per port, per month basis. Although this existing language is accurate, the Exchange believes that it should be more descriptive so as to avoid confusion as to the circumstances in which a customer will incur port fees. The Exchange now proposes to amend Section 3 to provide a more fulsome explanation of its billing practices.

To accomplish this, the Exchange proposes to reorganize its chart of ports and associated fees in the second paragraph of Section 3. Specifically, the Exchange proposes to split this chart into two parts.

The first part of the proposed amended chart will comprise port types for which the Exchange will charge a separate monthly fee to each MPID that it has assigned to a port, *i.e.,* OUCH, FIX Trading Port (FIX and FIX Lite (FLITE), RASH, and disaster recovery ports for OUCH, FIX Trading Port, and RASH. The first part of the chart will include the following preface to explain the Exchange's pertinent billing practice:

For the port types listed immediately below, where a customer has requested that the Exchange assign more than one MPID to a particular port, then the Exchange will assess a separate monthly fee to each MPID assigned to the port.

The Exchange also proposes to revise its description of the price formula for each port type therein from ''$X/port/month'' to ''$X/each MPID assigned to port/month.''

The second part of the proposed amended chart will comprise port types for which the Exchange will charge a monthly fee only to the MPID that requested the port, *i.e.,* Multicast TotalView-ITCH (software based), TCP ITCH data feed, DROP, Trading Ports used in Test Mode, and the disaster recover port for DROP.[3] This part will include the following preface describing the applicable billing practice:

For the port types listed immediately below, the Exchange will assess the monthly fee to the single MPID that requested that particular port.

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] It also includes ports for which the exchange charges no fee—Data Retransmission Ports and other disaster recover ports. The Exchange proposes to add a parenthetical with the word ''Glimpse'' next to Data Retransmission Ports to clarify that that such Ports include access to the ''Glimpse'' product, which allows a subscriber to replay market data from the current trading day.

For the ports in this part, the Exchange will maintain its existing price formula: ''$X/port/month.''

The Exchange emphasizes that the foregoing proposal does not make any change to the Exchange's existing port fees other than to clarify its existing practices for assessing them.[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal is reasonable because it clarifies the Exchange's port fee schedule, at Section 3. Although existing Section 3 is an accurate description of the fees that the Exchange charges for ports, it does not describe the nuances of the Exchange's existing practices for assessing port fees in different situations. The proposal will convey these nuances in order to avoid potential confusion among customers as to the circumstances in which they will incur port fees. In particular, the proposal will amend Section 3 to state that, for certain enumerated port types, the Exchange will assess a monthly fee only on the MPID that requested the port, whereas in other enumerated port types, the Exchange will assess a separate fee to the requesting MPID as well as to each additional MPID that the requester asked the Exchange to assign to the same port.

The Exchange believes that this proposal is also equitable in that a more fulsome description of the Exchange's port fee practices will help to avoid any potential confusion as to when and under what circumstances the Exchange will assess a monthly port fee to a customer. The Exchange notes that the proposal merely codifies the existing practices of the Exchange with respect to port fees and will not involve any substantive changes to the fees that the Exchange's customers are paying now.

The Exchange believes that its proposal is not unfairly discriminatory because, again, the proposal will merely make non-substantive clarifications to Section 3 that will codify the Exchange's existing practices for assessing port fees in different situations. The proposal will not make any changes to the fees that port users pay presently.

Finally, the Exchange believes that it is consistent with the Act to delete a paragraph from the Rules that refers to a port fee waiver that has expired, as of January 1, 2019. It is in the interest of the public and investors for the Exchange to maintain a rulebook that is current and accurate.

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. Insofar as the proposal merely codifies existing practice and makes no changes to the fees that the Exchange charges presently, the Exchange does not expect that the proposal will have any impact on competition whatsoever.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–83 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–83, and should be submitted on or before February 21,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00477 Filed 1–30–19; 8:45 am]

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[4] In addition to the above, the Exchange proposes to delete the following paragraph from the Rule insofar as it will become obsolete and will no longer apply after December 31, 2018: ''New PSX Participants will not be assessed the above listed Port Fees through December 31, 2018. A New PSX Participant will be defined as a PSX Participant that was not a PSX Participant before September 1, 2017.''

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84991; File No. S7–27–11]

Order Granting a Limited Exemption From the Exchange Act Definition of ''Penny Stock'' for Security-Based Swap Transactions Between Eligible Contract Participants; Granting a Limited Exemption From the Exchange Act Definition of ''Municipal Securities'' for Security-Based Swaps; and Extending Certain Temporary Exemptions Under the Exchange Act in Connection With the Revision of the Definition of ''Security'' To Encompass Security-Based Swaps

January 25, 2019.

I. Introduction

The Securities and Exchange Commission (''Commission'' or ''SEC'') is granting a limited exemption under Securities Exchange Act of 1934 (''Exchange Act'') from the definition of ''penny stock'' in Section 3a(51) and Rule 3a51–1 for transactions in security-based swaps between eligible contract participants (''ECPs''); [1] granting a limited exemption from the definition of ''municipal securities'' for security-based swaps; and extending until February 5, 2020, certain temporary exemptive relief originally provided by the Commission in connection with the revision of the definition of ''security'' in the Exchange Act to encompass security-based swaps.[2]

II. Discussion

A. Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act [3] amended the definition of ''security'' under the Exchange Act to expressly encompass security-based swaps.[4] The expansion of the definition of the term ''security'' to include security-based swaps had the effect of changing the scope of the Exchange Act regulatory provisions that apply to security-based swaps and, in doing so, raised certain complex questions that required further consideration.

In July 2011, the Commission issued an order (the ''2011 Exchange Act Exemptive Order''), which granted temporary exemptive relief from compliance with certain provisions of the Exchange Act in connection with security-based swap activity by: (i) Any person who meets the definition of ''eligible contract participant'' set forth in Section 1a(12) of the Commodity Exchange Act as of July 20, 2010 (*i.e.,* the day prior to the date the Dodd-Frank Act was signed into law) and (ii) a broker or dealer registered under Section 15(b) of the Exchange Act.[5]

The overall approach of the 2011 Exchange Act Exemptive Order was directed toward maintaining the *status quo* during the implementation process for the Dodd-Frank Act.[6] In the 2011 Exchange Act Exemptive Order, the Commission stated that it would accomplish this ''by preserving the application of particular Exchange Act requirements that already are applicable in connection with instruments that will be 'security-based swaps' following the Effective Date [of the Dodd-Frank Act], but deferring the applicability of additional Exchange Act requirements in connection with those instruments explicitly being defined as 'securities' as of the Effective Date.'' [7]

In 2014, the Commission extended the expiration dates for the temporary exemptions in the 2011 Exchange Act Exemptive Order.[8] In the 2014 Extension Order, the Commission distinguished between: (i) The temporary exemptions related to pending security-based swap rulemakings (''Linked Temporary Exemptions''); and (ii) the temporary exemptions that generally were not directly related to a specific security-based swap rulemaking (''Unlinked Temporary Exemptions'').[9] The expiration dates for the Linked Temporary Exemptions established by the 2014 Extension Order were the compliance dates for the specific rulemakings to which they were ''linked,'' and the expiration date for the Unlinked Temporary Exemptions was three years following the effective date of the 2014 Extension Order (*i.e.,* February 5, 2017), or such time that the Commission issues an order or rule determining whether continuing exemptive relief is appropriate for security-based swaps with respect to any such Unlinked Temporary Exemptions. This approach was designed to provide the Commission with flexibility while its Dodd-Frank Act rulemaking is still in progress to determine whether continuing relief should be provided for any of the Unlinked Temporary Exemptions.[10]

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[1] The term ''eligible contract participant'' or ''ECP'' is defined in Section 1a(18) of the Commodity Exchange Act (''CEA'') [7 U.S.C. 1a(18)]. The definition of the term ''eligible contract participant'' in the Exchange Act refers to the definition of ''eligible contract participant'' in the CEA. *See* Section 3(a)(65) of the Exchange Act. The SEC and the Commodity Futures Trading Commission have adopted final rules further defining the term ''eligible contract participant.'' *See* Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant,'' Exchange Act Release No. 66868 (Apr. 27, 2012), 77 FR 30596 (May 23, 2012).

[2] *See* Order Granting Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Pending Revisions of the Definition of ''Security'' to Encompass Security-Based Swaps, Exchange Act Release No. 64795 (July 1, 2011), 76 FR 39927 (July 7, 2011) (''2011 Exchange Act Exemptive Order''); *See also* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48207 (Aug. 13, 2012) (''Product Definitions Adopting Release'') (extending the expiration date of the Temporary Exemptions to February 11, 2013); Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 68864 (Feb. 7, 2013), 78 FR 10218 (Feb. 13, 2013) (extending the expiration date to February 11, 2014); Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 71485 (Feb. 5, 2014), 79 FR 7731 (Feb. 10, 2014) (''2014 Extension Order'') (extending the expiration date for certain Temporary Exemptions to February 5, 2017).; Order Extending Until February 5, 2019 Certain Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Pending Revision of the Definition of ''Security'' to Encompass Security-Based Swaps and Request for Comment, Exchange Act Release No. 82626 (Feb. 2, 2018), 83 FR 5665 (Feb. 18, 2018) (''2018 Extension Order'').

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

[4] *See* Section 761(a)(2) of the Dodd-Frank Act (amending Section 3(a)(10) of the Exchange Act (15 U.S.C. 78c(a)(10)). The provisions of Title VII generally became effective on July 16, 2011 (360 days after the enactment of the Dodd-Frank Act) (the ''Effective Date''), unless a provision required a rulemaking, in which case the provision would go into effect ''not less than'' 60 days after publication of the related final rules in the **Federal Register** or on July 16, 2011, whichever is later. *See* Section 774 of the Dodd-Frank Act (15 U.S.C. 77b).

[5] *See* 2011 Exchange Act Exemptive Order, 76 FR at 39938–39. The 2011 Exchange Act Exemptive Order did not provide exemptive relief for any provisions or rules prohibiting fraud, manipulation, or insider trading (other than the prophylactic reporting or recordkeeping requirements such as the confirmation requirements of Exchange Act Rule 10b–10). In addition, the 2011 Exchange Act Exemptive Order did not affect the Commission's investigative, enforcement, and procedural authority related to those provisions and rules. *See* 2011 Exchange Act Exemptive Order at 39931, n. 34. The 2011 Exchange Act Exemptive Order also did not address Sections 12, 13, 14, 15(d), 16, and 17A of the Exchange Act and the rules thereunder.

[6] *See id.,* at 39929.

[7] *Id.* Under the 2011 Exchange Act Exemptive Order, instruments that (before the Effective Date) were security-based swap agreements and (after the Effective Date) constituted security-based swaps were still subject to the application of those Exchange Act provisions. *See* 2011 Exchange Act Exemptive Order, 76 FR at 39930, nn. 24–25.

[8] *See* 2014 Extension Order.

[9] *See id.,* at 7732.

[10] *See id.,* at 7731. The 2014 Extension Order referred to the temporary exemptions provided for in the 2011 Exchange Act Exemptive Order as the

Continued

2018 Extension Order

In the 2018 Extension Order, the Commission extended the expiration date of the Unlinked Temporary Exemptions until February 5, 2019.[11] In the 2018 Extension Order, the Commission also requested comment on whether continuing exemptive relief is necessary beyond February 5, 2019.[12] The Commission received four letters from two different commenters in response.[13]

B. Temporary Exemptions

The Commission has proposed substantially all of the rules governing security-based swap market participants and transactions required by Title VII of the Dodd-Frank Act and has finalized a majority of these rulemakings.[14] However, the Commission is still in the process of finalizing some remaining rules under Title VII of the Dodd-Frank Act.[15]

As described above, since initially granting temporary exemptive relief for the Unlinked Temporary Exemptions, the Commission has extended the temporary exemptive relief four times. Each time, the Commission requested comment on why continuing the exemptive relief was necessary. In 2018, the Commission requested that ''any request should be detailed as to the circumstances in which the Exchange Act provision or rule applies to security-based swaps or security-based swap market participants, and why relief [would be] necessary.'' [16] Detailed comments could provide the Commission with information useful to evaluate whether an exemption is necessary or appropriate in the public interest, and consistent with the protection of investors, as required by Section 36.[17]

Following its issuance of the 2018 Extension Order, the Commission received four letters from two different commenters that were responsive to the request for comment in the 2018 Extension Order. Two of the letters from one commenter identified specific provisions for which permanent relief was sought.[18] In particular, in SIFMA Letter III and SIFMA Letter IV, SIFMA requests (1) that two of the exemptions it describes as implicated by the Unlinked Temporary Exemptions (exemptions from the definition of ''penny stock'' and from Section 31 fees for security-based swaps) be extended on a permanent basis; and (2) guidance regarding municipal and government securities. In SIFMA Letter III, SIFMA also requests that the Commission provide an additional extension period before the expiration of the remaining Unlinked Temporary Exemptions in order to allow for an orderly transition. In SIFMA Letter IV, SIFMA clarifies that request for an additional extension period and requests that the Commission extend the Unlinked Temporary Exemptions for an additional twelve months. The FIA

''Expiring Temporary Exemptions'' and noted that the 2011 Exchange Act Exemptive Order generally provided for the following exemptions from the Exchange Act: ''(a) temporary exemptions in connection with security-based swap activity by certain 'eligible contract participants'; and (b) temporary exemptions specific to security-based swap activities by registered brokers and dealers.''

The 2014 Extension Order identified the Linked Temporary Exemptions as those Expiring Temporary Exemptions related to: (1) Capital and margin requirements applicable to a broker or dealer (Sections 7 and 15(c)(3), Regulation T, and Exchange Act Rules 15c3–1, 15c3–3, and 15c3–4); (2) recordkeeping requirements applicable to a broker or dealer (Sections 17(a) and 17(b) and Exchange Act Rules 17a–3, 17a–4, 17a–5, 17a–11, and 17a–13); (3) registration requirements under Section 15(a)(1), and the other requirements of the Exchange Act and the rules and regulations thereunder that apply to a ''broker'' or ''dealer'' that is not registered with the Commission; (4) Exchange Act Rule 10b–10; and (5) Regulation ATS. The remaining Expiring Temporary Exemptions are the Unlinked Temporary Exemptions.

As applicable, the Commission extended the Linked Temporary Exemptions until the compliance date for pending rulemakings concerning: Capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants; recordkeeping and reporting requirements for broker-dealers, security-based swap dealers, and major security-based swap participants; security-based swap trade acknowledgements; and registration requirements for security-based swap execution facilities. The Linked Temporary Exemptions are not addressed in this order and have been, or will be, separately considered in connection with the related security-based swap rulemakings. *See, e.g.,* Trade Acknowledgement and Verification of Security-Based Swap Transactions, Exchange Act Release No. 78011 (June 8, 2016), 81 FR 39807, 39824–25, n. 189 (June 17, 2016).

[11] *See* 2018 Extension Order. *See also* Order Extending Certain Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps and Request for Comment, Exchange Act Release No. 79833 (Jan. 18, 2017), 82 FR 8467 (Jan. 25, 2017) (''2017 Extension Order''). The 2017 Extension Order, which had extended the expiration date of the Unlinked Temporary Exemptions until February 5, 2018, received two comments, both of which had expressed support for extending the exemptive relief, with one reiterating its prior request that the Commission provide permanent exemptive and other relief to security-based swap market participants from the Exchange Act and the Securities Act. *See* comment from Layla Spencer, dated Jan. 30, 2017; and letters from Kyle Brandon, Managing Director, SIFMA, dated Feb. 2, 2017 (''SIFMA Letter I'') and Jan. 11, 2018 (''SIFMA Letter II'') (requesting that the Commission further extend the exemptive relief for the Unlinked Temporary Exemptions). For details regarding SIFMA's earlier request for permanent exemptive and other relief, see Draft SIFMA SBS Exemptive Relief Request (Oct. 20, 2011), which is available at *https://www.sec.gov/comments/s7-27-11/s72711-7.pdf,* and SIFMA SBS Exemptive Relief Request (Dec. 5, 2011), which is available at *https://www.sec.gov/comments/s7-27-11/s72711-10.pdf.*

[12] Comments received are available at *https://www.sec.gov/comments/s7-27-11/s72711.shtml.* The Commission did not receive any comments in response to the request for comment in the 2014 Extension Order. However, in 2012, the Commission received a request from market participants to extend certain of the Temporary Exemptions, citing concerns that key issues and questions regarding the application of the federal securities laws remained unresolved and continuing concerns about the potential for unnecessary disruption to the security-based swap market. *See* SIFMA Request for Extension of the Expiration Date of the SEC's Exchange Act Exemptive Order and SBS Interim final Rules (Dec. 20, 2012), which is available at *http://www.sec.gov/comments/s7-27-11/s72711-12.pdf.*

[13] *See* letter from Kyle Brandon, Managing Director, SIFMA, dated Nov. 8, 2018 (''SIFMA Letter III'') (requesting that the Commission further extend the exemptive relief for the Unlinked Temporary Exemptions, which are currently set to expire on Feb. 5, 2019, and also requesting certain permanent exemptive and other relief). *See also* supplemental letter from Kyle Brandon, Managing Director, SIFMA, dated Dec. 20, 2018 (''SIFMA Letter IV'') (supplementing November 2018 submission with additional detail and recommending a transition period before expiration of any Unlinked Temporary Exemptions). *See also* letters from Walt L. Lukken, President and Chief Executive Officer, Futures Industry Association, dated Nov. 18 and Nov. 29, 2018 (the ''FIA Letters'') (each expressing support for codifying the exemptions for SBS from inapplicable securities rules).

[14] *See, e.g.,* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Security-Based Swap Data Repository Registration, Duties, and Core Principles, Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14437 (Mar. 19, 2015); Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release No. 75611 (Aug. 5, 2015), 80 FR 48963 (Aug. 14, 2015); Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 78321 (July 14, 2016), 81 FR 53545 (Aug. 12, 2016); Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Person To Effect or Be Involved in Effecting Security-Based Swaps, Exchange Act Release No. 84858 (Dec. 19, 2018).

[15] *See, e.g.,* Registration and Regulation of Security-Based Swap Execution Facilities, Exchange Act Release No. 63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011); Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012); Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers; Proposed Rules, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25194 (May 2, 2014); Risk Mitigation Techniques for Uncleared Security-Based Swaps, Exchange Act Release No. 84861 (Dec. 19, 2018).

[16] *See* 2018 Extension Order, at 8469.

[17] *See* Exchange Act Section 36 [15 U.S.C. 78mm]. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt, by rule, regulation, or order any person, security, or transaction (or any class or classes of persons, securities, or transactions) from any provision of the Exchange Act or any rule or regulation.

[18] *See* SIFMA Letters III and IV, *supra* note 13.

Letters express support for SIFMA Letter III and for extending the temporary exemptive relief for the Unlinked Temporary Exemptions beyond February 5, 2019.[19]

In SIFMA Letter III and SIFMA Letter IV, SIFMA requests additional relief not discussed in this Order.[20] In particular, SIFMA requests relief in relation to the (i) regulation of security-based swap execution facilities, (ii) broker-dealer registration, (iii) Exchange Act Rule 10b–10, (iv) margin, (v) hypothecation, (vi) disclosure requirements relating to extensions of credit, (vii) requirements relating to personnel of SBS Entities, (viii) research requirements, (ix) municipal advisor regulation, (x) securities activities of OTC Derivatives Dealers, (xi) Exchange Member SRO Membership, and (xii) Audit Committees and Compensation Committees.[21] Some of these requests relate to Linked Temporary Exemptions rather than Unlinked Temporary Exemptions, and, as noted above, the Commission has considered or will consider those requests in connection with the related security-based swap rulemakings. In addition, the Commission believes that all of the additional requests would benefit from further consideration. The Commission invites market participants or other interested parties to provide any information that may be relevant to the Commission's consideration of these requests for relief, or to the scope of the order more generally.

C. Penny Stocks

In SIFMA Letter III, SIFMA requests an exemption from the definition of ''penny stock'' in Exchange Act Section 3(a)(51) and Exchange Act Rule 3a51–1 for security-based swap transactions between ECPs. SIFMA notes that it may not always be clear that a security-based swap is not a ''penny stock'' because the price of the security-based swap in dollar terms may not always be clear, and requests that the Commission provide certainty with respect to transactions between ECPs.[22] In SIFMA Letter IV, SIFMA also adds that it is not clear which security-based swaps constitute equity securities or whether, in classifying security-based swaps as penny stocks, market participants should evaluate the security-based swap itself or its underlier.[23] SIFMA also argues that the requirements applicable to penny stocks under Rules 15g–1 through 15g–9 are designed to apply to cash market securities transactions, not over-the-counter security-based swaps.[24] Moreover, according to SIFMA, security-based swaps will be subject to enhanced security-based swap specific disclosure and sales practice requirements as part of the Commission's business conduct standards for security-based dealers and major security-based swap participants, making the penny stock regulation duplicative.[25]

The definition of ''penny stock'' and the associated rules were part of a comprehensive effort by Congress and the Commission to reduce fraud and manipulation in the penny stock market and to address, among other things, a lack of investor information and education.[26] In the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, Congress directed the Commission to adopt a series of rules requiring broker-dealers to provide customers with certain trade and market information prior to effecting a transaction in a penny stock for their customers.[27] Rules 15g–1 through 15g–9 under the Exchange Act (collectively known as the ''penny stock rules'') implement the Congressional directive to increase the level of disclosure to investors concerning penny stocks generally as well as the specific penny stock involved in a transaction.[28] The scope of the penny stock rules is delineated by the definition of penny stock in Exchange Act Section 3(a)(51)[29] and Rule 3a51–1[30] thereunder.

The Dodd-Frank Act established a comprehensive framework for regulating the over-the-counter security-based swap market.[31] As part of that framework, Dodd-Frank directed the Commission to establish business conduct standards for security-based swap dealers and major-security-based swap participants.[32] In light of that framework, the Commission agrees with SIFMA's statement that transactions in security-based swaps will be subject to security-based swap specific disclosures and sales practices.[33] Although those Dodd-Frank disclosures and sales practices may not be precisely the same as those required under the penny stock rules, the Commission believes that the additional protections of the penny stock rules are unnecessary for transactions in security-based swaps with ECPs,[34] who, with respect to security-based swaps, are generally the type of market participants who understand the risks of security-based swaps without needing the added protections provided for by the penny stock rules.[35]

Accordingly, the Commission finds it is appropriate and in the public interest and consistent with the protection of investors to provide a new exemption from the definition of ''penny stock'' in Section 3(a)(51) and Rule 3a51–1 for security-based swap transactions between ECPs.

D. Municipal Securities

In its letters, SIFMA asked for guidance that, for purposes of the Exchange Act, including Section 15B and rules thereunder applicable to municipal securities, a security-based swap with a counterparty that is a municipal entity should not be considered a municipal security solely due to the identity of the counterparty. Exchange Act Section 3(a)(29) defines the term ''municipal securities'' to include ''securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States.''[36] The Commission understands that there is some uncertainty among market participants regarding whether Exchange Act regulatory provisions that apply to

[19] *See* FIA Letters, *supra* note 13.

[20] *See* SIFMA Letter III and SIFMA Letter IV, *supra* note 13.

[21] *See* SIFMA Letter III, *supra* note 13.

[22] *See* SIFMA Letter III, *supra* note 13.

[23] *See* SIFMA Letter IV, *supra* note 13.

[24] *Id.*

[25] *Id.*

[26] Public Law 101–429, 104 Stat. 931 (1990); See Penny Stock Disclosure Rules, Exchange Act Release No. 30608 (Apr. 20, 1992), 57 FR 18004 (Apr. 28, 1992).

[27] *Id.*

[28] Exchange Act Section 15(h) [15 U.S.C. 78o(h)].

[29] Exchange Act Section 3(a)(51) [15 U.S.C. 78c(a)(51)].

[30] Exchange Act Rule 3a51–1 [17 CFR 240.3a51–1].

[31] Dodd-Frank Act.

[32] *See* Dodd-Frank Act Section 764(h). Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, Release 34–77617 (Apr. 14, 2016), 81 FR 29960 (May 13, 2016) (''Business Conduct Standards Adopting Release''). This includes standards for when those entities act as advisors to ''special entities'' or engaging in security-based swap transactions with counterparties, including those that are special entities.

[33] *See* Exchange Act Rules 15Fh–1 through 15Fh–6 and Rule 15Fk–1.

[34] Many transactions in security-based swaps with ECPs will already be exempt from the penny stock rules, given the exemption provided for transactions that meet the requirements of Regulation D or transactions with an issuer not in connection with a public offering pursuant to Section 4(a)(2) of the Securities Act of 1933. *See* Exchange Act Rule 15g–1(c).

[35] The 2011 Exchange Act Exemptive Order did not provide relief for transactions with non-ECPs.

[36] *See* Exchange Act Section 3(a)(29) [15 U.S.C. 78c(a)(29)].

municipal securities brokers [37] and municipal securities dealers [38] apply to security-based swap dealers and major security-based swap participants that enter into security-based swaps with a counterparty that is a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States (a ''municipal counterparty''). As noted above with respect to the penny stock rules, security-based swap dealers and major security-based swap participants are already subject to a comprehensive regulatory regime. Moreover, that regulatory regime includes specific protections for when a security-based swap dealer or major security-based swap participant is acting as counterparty to a ''special entity,'' including a State, State agency, city, county, municipality, or other political subdivision of a State.[39] Given the comprehensive scope of this regulatory regime and for the avoidance of doubt, the Commission finds that it is appropriate and in the public interest to provide an exemption from the definition of ''municipal securities'' in Section 3(a)(29) for security-based swap transactions with a municipal counterparty. In the Commission's view, the exemption will avoid the application of duplicative and potentially conflicting requirements to security-based swap dealers and major security-based swap participants.

E. Government Securities

In SIFMA Letter III and SIFMA Letter IV, SIFMA asked for guidance that, for purposes of the Exchange Act, including Section 15C and rules thereunder applicable to government securities, a security-based swap with a counterparty that is a ''U.S. government-related entity'' should not be considered a government security solely due to the identity of the counterparty. The Unlinked Temporary Exemptions did not provide such relief and, thus, the treatment of government securities will not be impacted by the expiration of the Unlinked Temporary Exemptions. For that reason, the Commission is not addressing the subject of government securities as part of this Order. The Commission may consider SIFMA's request with respect to government securities, as well as the other requests included in SIFMA Letter III and SIFMA Letter IV, at a later date.[40]

F. Section 31 Fees

In SIFMA Letter III, SIFMA requested guidance that security-based swap transactions are not subject to Section 31 fees merely because they are subject to transaction reporting under Regulation SBSR. The Commission is not providing relief from Section 31 at this time. A sale of a security is subject to Section 31 fees only if (1) the sale occurs on a national securities exchange,[41] or (2) the sale is transacted by or through a member of a national securities association otherwise than on a national securities exchange and the security is registered on a national securities exchange or subject to prompt last-sale reporting pursuant to the rules of the Commission or a registered national securities association.[42] Although security-based swaps are securities, they do not meet any of the conditions noted above. Thus, security-based swaps are currently not subject to Section 31 fees and would not become subject to Section 31 fees due to the expiration of the Unlinked Temporary Exemptions or the full implementation of Regulation SBSR as it currently exists.

The Dodd-Frank Act created a new Section 13(m) of the Exchange Act that requires ''real-time public reporting'' of security-based swap transactions. Once real-time public reporting is fully-implemented, security-based swaps will be subject to prompt last-sale reporting pursuant to the rules of the Commission, which will subject them to Section 31 fees. Thus, when the Commission proposes to implement prompt last-sale reporting for security-based swap transactions, it may also revisit the appropriateness of exempting security-based swaps from Section 31 fees at such time.

G. Transition Period

In SIFMA Letter III, SIFMA requested that the Unlinked Temporary Exemptions for which permanent relief is not granted be extended until the date when security-based swap dealers and major-security-based swap participants are required to register with the Commission. In SIFMA Letter IV, SIFMA requested a twelve month transition period. SIFMA stated that the expiration of the Unlinked Temporary Exemptions will result in the application or potential application of over 150 different Exchange Act provisions.[43] SIFMA stated that market participants could design and implement appropriate compliance measures and controls during that transition period.[44] The Commission agrees that a transition period is appropriate. The Commission agrees that a twelve month transition period should allow market participants adequate time to design and implement appropriate compliance measure and controls. With this Order, the Commission is providing notice that the majority of the Unlinked Temporary Exemptions will expire on February 5, 2020, in order to provide sufficient additional time for market participants to prepare.

III. Commission Findings

The Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend for a period twelve months, the Unlinked Temporary Exemptions, until February 5, 2020, to allow market participants to prepare for the application of certain Exchange Act provisions and rules to security-based swap activities. The additional extension period will apply to *all* of the Unlinked Temporary Exemptions otherwise set to expire on February 5, 2019. Once this twelve-month extension period ends, all of the Unlinked Temporary Exemptions will expire, *with the exception* of the exemptions being provided with respect to the regulation of penny stocks

[37] Section 3(a)(31) of the Exchange Act defines the term ''municipal securities broker'' to mean ''a broker engaged in the business of effecting transactions in municipal securities for the account of others.'' *See* Exchange Act Section 3(a)(31) [15 U.S.C. 78c(a)(31)].

[38] Exchange Act Section 3(a)(30) defines the term ''municipal securities dealer'' to mean ''any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise, but does not include—(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or (B) a bank, unless the bank is engaged in the business of buying and selling municipal securities for its own account other than in a fiduciary capacity, through a broker or otherwise; *Provided, however,* that if the bank is engaged in such business through a separately identifiable department or division (as defined by the Municipal Securities Rulemaking Board in accordance with section 15B(b)(2)(H) of the Exchange Act), the department or division and not the bank itself shall be deemed to be the municipal securities dealer.'' *See* Exchange Act Section 3(a)(30) [15 U.S.C. 78c(a)(30)].

[39] *See* Exchange Act Section 15(h)(4)–(5). [15 U.S.C. 78o–10(h)(4)–(5)].

[40] Exchange Act Section 36(b) provides that ''the Commission may not, under this section, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from Section 15C or the rules or regulations issued thereunder or (for purposes of section 15C and the rules and regulations issued thereunder) from any definition in paragraph (42), (43), (44), or (45) of section 3(a).'' [15 U.S.C. 78mm].

[41] *See* Exchange Act Section 31(b) [15 U.S.C. 78ee(b)].

[42] *See* Exchange Act Section 31(c) [15 U.S.C. 78ee(c)].

[43] *See* SIFMA Letter IV, *supra* note 13.

[44] *Id.*

involving only ECPs and with respect to the definition of municipal securities, as described above. As noted above, the Commission invites market participants or other interested parties to provide comments regarding the scope of the permanent relief the Commission is granting in this order, including whether the Commission should provide further relief in response to specific requests made by prior commenters that the Commission is not addressing at this time.

Accordingly, pursuant to its authority under Section 36 of the Exchange Act,[45] the Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend the expiration of all Unlinked Temporary Exemptions for a period of twelve months (*i.e.,* until February 5, 2020).

Pursuant to Sections 36, the Commission finds that it is necessary and appropriate and in the public interest, and consistent with the protection of investors to provide an exemption or security-based swap transactions between ECPs from the definition of ''penny stock'' in Exchange Act Section 3a(51) and Exchange Act Rule 3a51–1.

Pursuant to Section 36, the Commission finds that it is necessary and appropriate and in the public interest, and consistent with the protection of investors to provide for an exemption for security-based swap transactions with a municipal counterparty from the definition of ''municipal securities'' in Exchange Act Section 3(a)(29).

* * * * *

IV. Conclusion

It is hereby ordered, pursuant to Section 36 of the Exchange Act, that except as provided below, the Unlinked Temporary Exemptions contained in the 2011 Exchange Act Exemptive Order, and extended in the 2018 Extension Order, in connection with the revision of the Exchange Act definition of ''security'' to encompass security-based swaps, are extended until February 5, 2020.

It is further ordered, pursuant to Section 36 of the Exchange Act, that security-based swap transactions between ECPs shall be exempt from the definition of ''penny stock'' set forth in Exchange Act Section 3(a)(51) and Rule 3a51–1.

It is further ordered, pursuant to Section 36 of the Exchange Act, that security-based swaps shall be exempt from the definition of ''municipal securities'' in Exchange Act Section 3(a)(29).

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00505 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[45] Exchange Act Section 36 [15 U.S.C. 78mm]. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt, by rule, regulation, or order any person, security, or transaction (or any class or classes of persons, securities, or transactions) from any provision of the Exchange Act or any rule or regulation thereunder, to the extent such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84972; File No. SR–CboeBYX–2018–014]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Make Permanent Rule 11.24, Which Sets Forth the Exchange's Pilot Retail Price Improvement Program

December 26, 2018.

On July 30, 2018, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make permanent Rule 11.24, which sets forth the Exchange's pilot Retail Price Improvement Program. The proposed rule change was published for comment in the **Federal Register** on August 17, 2018.[3] On September 27, 2018, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On November 15, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [7] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on August 17, 2018.[8] February 13, 2019 is 180 days from that date, and April 14, 2019 is 240 days from that date. The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change.[9]

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] a designates April 14, 2019, as the date by which the Commission shall approve or disapprove the proposed rule change (File No. SR–CboeBYX–2018–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00482 Filed 1–30–19; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128.

[4] *See* Securities Exchange Act Release No. 84297, 83 FR 49959 (October 3, 2018). The Commission designated November 15, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[5] 15 U.S.C. 78(s)(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 84600, 83 FR 58802 (November 21, 2018).

[7] 15 U.S.C. 78s(b)(2).

[8] *See supra* note 3.

[9] The Commission notes that on December 11, 2018, the Exchange filed a proposed rule change to extend the pilot period to June 30, 2019. *See* Securities Exchange Act Release No. 84830, 83 FR 65769 (December 21, 2018) (SR–CboeBYX–2018–025).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84990); File No. SR–NYSEArca–2018–43]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Regarding Investments of the First Trust TCW Unconstrained Plus Bond ETF

January 25, 2019.

On July 11, 2018, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to modify investments of the First Trust TCW Unconstrained Plus Bond ETF, the shares of which are currently listed and traded on the Exchange pursuant to NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on August 1, 2018.[3]

On September 14, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On October 30, 2018, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.[7] The Commission has received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act [8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. In this case, the proposed rule change was published for notice and comment in the **Federal Register** on August 1, 2018.[9] January 28, 2019, is 180 days from that date, and March 29, 2019, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates March 29, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEArca–2018–43).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2019–00498 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 83720 (July 26, 2018), 83 FR 37560.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 84123, 83 FR 47654 (September 20, 2018). The Commission designated October 30, 2018, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Securities Exchange Act Release No. 84504 (October 30, 2018), 83 FR 55439 (November 5, 2018).

[8] 15 U.S.C. 78s(b)(2).

[9] *See supra* note 3.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84975; File No. SR–NYSEAMER–2018–56]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Fee Schedule

December 26, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 21, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective January 1, 2019. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule to extend for another year the prepayment incentive program for Floor Broker organizations (each a ''Floor Broker'') that the Exchange introduced in April 2018 (the ''FB Prepay Program'' or ''Program'').[4]

Pursuant to the FB Prepay Program, the Exchange offered Floor Brokers that operate on the Exchange a 10% discount on their ''Eligible Fixed Costs'' (described in the table below) if Floor Brokers prepaid such costs for April through December 2018.

Eligible Fixed Costs
Section III.A. Monthly ATP Fees.
Section III.B. Floor Access Fee.
Section IV. Monthly Floor Communication, Connectivity, Equipment and Booth or Podia Fees as listed below:
Login.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Exchange Act Release No. 83073 (April 20, 2018), 83 FR 18377 (April 26, 2018) (NYSEAmer–2018–15). *See also* Fee Schedule, Section III.E., Floor Broker Fixed Cost Prepayment Incentive Program (the ''FB Prepay Program''), *available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

Eligible Fixed Costs
Transport Charges.
Booth Premises.
Telephone Service.
Cellular Phones.
Booth Telephone System—Line Charge.
Booth Telephone System—Single line phone jack and data jack.
Wire Services.

The Exchange proposes to extend the FB Prepay Program and offer Floor Brokers the opportunity to prepay their annual Eligible Fixed Costs for 2019, with modifications to the benchmarks utilized to assess eligibility for the Percentage Growth Incentive.[5] The Exchange proposes to continue to offer participants in the FB Prepay Program the opportunity to qualify for larger discounts (*i.e.,* more than 10% of the 2019 Eligible Fixed Costs) through the Percentage Growth Incentive (the ''Incentive''), which is designed to encourage Floor Brokers to increase their average daily volume (''ADV'') in billable manual contract sides by certain percentages (correlated with Tiers) as measured against one of two benchmarks.[6]

For the 2019 FB Prepay Program, the Exchange proposes to modify the first benchmark by requiring a minimum 11,000 contract sides (up from 10,000) in billable ADV and proposes to modify the second benchmark by requiring 110% of the Floor Broker's total billable manual ADV in contract sides (up from 100%) during the second half of 2017—*i.e.,* July through December 2017. The Exchange is not modifying the percentages (correlated with Tiers 1–3) against which the benchmarks are measured.[7] The Exchange notes that Equity Option Industry ADV for 2018 is up 24% as compared to Equity Option Industry ADV for the last six months of 2017 (and the three years prior). Thus, in this climate, the Exchange believes it is appropriate to apply a nominal increase in the first benchmark—from a minimum of 10,000 ADV to 11,000 ADV. Similarly, given that 2018 options industry volume has been elevated and the Exchange cannot predict whether volumes for 2019 will continue at the same pace, the Exchange believes it is appropriate to continue to use ADV from the latter half of 2017 as the alternative benchmark, with a nominal increase of 10% over the current requirement. The Exchange notes that the changes to the Program are designed to encourage those Floor Brokers that enrolled in the Program for 2018 to reenroll for 2019 as well as to attract Floor Brokers that have not yet participated.

As proposed, a Floor Broker that commits to the Program for 2019 would be invoiced in January 2019 for its estimated Eligible Fixed Costs, through the end of 2019, less 10%. The estimated annual Eligible Fixed Costs (*i.e.,* for January through December 2019) for each participating Floor Broker would be based on that Floor Broker's November, 2018 invoice for such costs [sic].

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposal to extend the FB Prepayment Program as modified is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Program is optional and Floor Brokers can elect to participate (or elect not to participate). In addition, the Exchange is continuing to offer two alternative means to achieve the same enhanced discount to ensure that Floor Brokers that are new to the Exchange (and therefore have no historical ADV from 2017) could nonetheless participate in the Program. The Exchange notes that Equity Option Industry ADV for 2018 is up 24% as compared to Equity Option Industry ADV for the last six months of 2017 (and the three years prior). Thus, in this climate, the Exchange believes it is appropriate to apply a nominal increase in the first benchmark—from a minimum of 10,000 ADV to 11,000 ADV. Similarly, given that 2018 options industry volume has been elevated and the Exchange cannot predict whether volumes for 2019 will continue at the same pace, the Exchange believes it is appropriate to continue to use ADV from the latter half of 2017 as the alternative benchmark, with a nominal increase of 10% over the current requirement. The Exchange notes that the changes to the Program are designed to encourage those Floor Brokers that enrolled in the Program for 2018 to reenroll for 2019 as well as to attract Floor Brokers that have not yet participated.

The Exchange believes the proposed changes to the FB Program would continue to incent Floor Brokers to increase their billable volume executed in open outcry on the Exchange in an effort to achieve the Incentive (the percentages for which remain unchanged), which would benefit all market participants by expanding liquidity and providing more trading opportunities, even to those market participants that have not committed to the Program. Regardless of which benchmark a participating Floor Broker's growth is measured against, all Floor Broker's that opt to participate and seek to achieve the Incentive would be required to increase volume executed on the Exchange in order to receive the enhanced discount. Thus, the Exchange believes the proposed Program, is reasonable, equitable and not unfairly discriminatory to others.

The Exchange believes the proposal to continue to offer the Percentage Growth Incentive for 2019 based on ADV in contract sides in 2019 is reasonable, equitable and not unfairly discriminatory because, just as under the existing program, this Incentive is designed to encourage Floor Brokers to increase their ADV in billable manual contract sides by certain percentages (correlated with Tiers) as measured against the two available benchmarks.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the

[5] To participate in the 2019 FB Prepay Program, Floor Brokers would have to notify the Exchange in writing by emailing *optionsbilling@nyse.com,* indicating a commitment to submit prepayment, by no later than December 31, 2018. The email to enroll in the Program would have to originate from an officer of the Floor Broker organization and, except as provided for below, represents a binding commitment through the end of 2019. To participate in the Program, prepayment for the balance of the year must be received by the close of business on January 31, 2019. *See* proposed Fee Schedule, Section III.E., Floor Broker Fixed Cost Prepayment Incentive Program (the ''FB Prepay Program''). ''Participating Floor Broker organizations that qualify for the Percentage Growth Incentive will receive their 2019 rebate in January 2020.'' *See id.*

[6] The Percentage Growth Incentive would continue to exclude Customer volume, Firm Facilitation trades, and QCCs. Any volume calculated to achieve the Firm Monthly Fee Cap and the Strategy Execution Fee Cap, regardless of whether either of these caps is achieved, will likewise be excluded from the Percentage Growth Incentive because fees on such volume are already capped and therefore such volume does not increase billable manual volume. *See* Fee Schedule, Section III.E., *supra* note 4.

[7] *See id.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

proposed changes to the FB Prepayment Program may increase both inter-market and intra-market competition by incenting participants to direct their orders to the Exchange, which would enhance the quality of quoting and may increase the volume of contracts traded on the Exchange. To the extent that there is an additional competitive burden on non-Exchange participants, the Exchange believes that this is appropriate because the proposal should incent market participants to direct additional order flow to the Exchange, and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange would benefit all market participants and improve competition on the Exchange.

Given the robust competition for volume among options markets, many of which offer the same products, implementing programs to attract order flow, such as the proposed changes to the FB Prepayment Program, are consistent with the above-mentioned goals of the Act.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2018–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–56, and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00480 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84974; File No. BX–2018–025]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Make Permanent the Exchange's Retail Price Improvement Program

December 26, 2018.

On July 9, 2018, Nasdaq BX, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make permanent the Exchange's Retail Price Improvement Program. The proposed rule change was published for comment in the **Federal Register** on July 26, 2018.[3] On August 31, 2018, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On October 23, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83681 (July 20, 2018), 83 FR 35516.

[4] *See* Securities Exchange Act Release No. 84013, 83 FR 45479 (September 7, 2018). The Commission designated October 24, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [7] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on July 26, 2018.[8] January 22, 2019 is 180 days from that date, and March 23, 2019 is 240 days from that date. The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change.[9]

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates March 23, 2019, as the date by which the Commission shall approve or disapprove the proposed rule change (File No. SR–BX–2018–025).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00479 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78(s)(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 84472, 83 FR 54411 (October 29, 2018).

[7] 15 U.S.C. 78s(b)(2).

[8] *See supra* note 3.

[9] The Commission notes that on December 11, 2018, the Exchange filed a proposed rule change to extend the pilot period to June 30, 2019. *See* Securities Exchange Act Release No. 84847, 83 FR 66326 (December 26, 2018) (SR–BX–2018–063).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84952; File No. SR–BX–2018–067]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VI, Section 5

December 26, 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 December 21, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 5 (Minimum Increments),[3] to extend through June 30, 2019 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot. The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the BX Options Market (''BX Options''), unless otherwise noted.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2018.[5]

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2019 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 83526 (June 26, 2018), 83 FR 30993 (July 2, 2018) (SR–BX–2018–027).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the January replacement, trading volume from June 1, 2018 through November 30, 2018 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot (*i.e.,* December) would not be used for purposes of the six-month analysis.

remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to 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, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2019 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2019, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

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–BX–2018–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2018–067. 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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–067 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00507 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84954; File No. SR–DTC–2018–010]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Amend the Settlement Guide Procedures To Provide Status Information for Institutional Transactions to a Matching Utility

December 26, 2018.

On November 29, 2018, The Depository Trust Company (''DTC''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change, to allow DTC to share status information with matching utilities (SR–DTC–2018–010), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on December 12, 2018.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the proposed rule change is January 25, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the proposed rule change.

Accordingly, pursuant to Section 19(b)(2) of the Act[5] and for the reasons stated above, the Commission designates March 12, 2019 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–DTC–2018–010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00467 Filed 1–30–19; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84971; File No. SR–NYSEArca–2018–95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

December 26, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 21, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective January 1, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule to extend for another year the prepayment incentive program for Floor Broker organizations (each a ''Floor Broker'') that the Exchange introduced in April 2018 (the ''FB Prepay Program'' or ''Program'').[4]

Pursuant to the FB Prepay Program, the Exchange offered Floor Brokers that operate on the Exchange a 10% discount on their ''Eligible Fixed Costs'' (described in the table below) if Floor Brokers prepaid such costs for April through December 2018.

ELIGIBLE FIXED COSTS

OTP trading participant rights.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 84751 (December 7, 2018), 83 FR 63948 (December 12, 2018) (SR–DTC–2018–010).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Exchange Act Release No. 83074 (April 20, 2018), 83 FR 18374 (April 26, 2018) (SR–NYSEArca–2018–24). *See also* Fee Schedule, FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM (the ''FB Prepay Program''), *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

ELIGIBLE FIXED COSTS—Continued

Floor broker order capture device—market data fees.
Floor booths.
Telephones.
Options floor access fee.
Wire services.
Vendor equipment room/cabinet fee.

The Exchange proposes to extend the FB Prepay Program and offer Floor Brokers the opportunity to prepay their annual Eligible Fixed Costs for 2019, with certain modifications. First, the Exchange proposes to eliminate Telephone charges and the Vendor Equipment Room/Cabinet Fee (''Cabinet Fee'') from the list of Eligible Fixed Costs in the 2019 Program. As noted in a recent filing, the Exchange plans to modify the Fee Schedule in connection with the relocation of the Trading Floor early next year, including changing the way Floor Brokers pay for telephone service and eliminating the Cabinet Fee.[5] Thus, the Exchange proposes to remove these items from the list of Eligible Fixed Costs in an effort to prevent Floor Brokers from overpaying for 2019 based on November 2018 costs that would include these items. Second, the Exchange proposes to modify the benchmarks utilized to assess eligibility for the Percentage Growth Incentive.[6] The Exchange proposes to continue to offer participants in the FB Prepay Program the opportunity to qualify for larger discounts (*i.e.,* more than 10% of the 2019 Eligible Fixed Costs) through the Percentage Growth Incentive (the ''Incentive''), which is designed to encourage Floor Brokers to increase their average daily volume (''ADV'') in billable manual contract sides by certain percentages (correlated with Tiers) as measured against one of two benchmarks.[7]

For the 2019 FB Prepay Program, the Exchange proposes to modify the first benchmark by requiring a minimum 11,000 contract sides (up from 10,000) in billable ADV and proposes to modify the second benchmark by requiring 110% of the Floor Broker's total billable manual ADV in contract sides (up from 100%) during the second half of 2017—*i.e.,* July through December 2017. The Exchange is not modifying the percentages (correlated with Tiers 1–3) against which the benchmarks are measured.[8] The Exchange notes that Equity Option Industry ADV for 2018 is up 24% as compared to Equity Option Industry ADV for the last six months of 2017 (and the three years prior). Thus, in this climate, the Exchange believes it is appropriate to apply a nominal increase in the first benchmark—from a minimum of 10,000 ADV to 11,000 ADV. Similarly, given that 2018 options industry volume has been elevated and the Exchange cannot predict whether volumes for 2019 will continue at the same pace, the Exchange believes it is appropriate to continue to use ADV from the latter half of 2017 as the alternative benchmark, with a nominal increase of 10% over the current requirement. The Exchange notes that the changes to the Program are designed to encourage those Floor Brokers that enrolled in the Program for 2018 to reenroll for 2019 as well as to attract Floor Brokers that have not yet participated.

As proposed, a Floor Broker that commits to the Program for 2019 would be invoiced in January 2019 for its estimated Eligible Fixed Costs, through the end of 2019, less 10%. The estimated annual Eligible Fixed Costs (*i.e.,* for January through December 2019) for each participating Floor Broker would be based on that Floor Broker's November, 2018 invoice for such costs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposal to extend the FB Prepayment Program as modified is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Program is optional and Floor Brokers can elect to participate (or elect not to participate). In addition, the Exchange is continuing to offer two alternative means to achieve the same enhanced discount to ensure that Floor Brokers that are new to the Exchange (and therefore have no historical ADV from 2017) could nonetheless participate in the Program. The Exchange notes that Equity Option Industry ADV for 2018 is up 24% as compared to Equity Option Industry ADV for the last six months of 2017 (and the three years prior). Thus, in this climate, the Exchange believes it is appropriate to apply a nominal increase in the first benchmark—from a minimum of 10,000 ADV to 11,000 ADV. Similarly, given that 2018 options industry volume has been elevated and the Exchange cannot predict whether volumes for 2019 will continue at the same pace, the Exchange believes it is appropriate to continue to use ADV from the latter half of 2017 as the alternative benchmark, with a nominal increase of 10% over the current requirement. The Exchange notes that the changes to the Program are designed to encourage those Floor Brokers that enrolled in the Program for 2018 to reenroll for 2019 as well as to attract Floor Brokers that have not yet participated.

The Exchange believes the proposed changes to the FB Program would continue to incent Floor Brokers to increase their billable volume executed in open outcry on the Exchange in an effort to achieve the Incentive (the percentages for which remain unchanged), which would benefit all market participants by expanding liquidity and providing more trading opportunities, even to those market participants that have not committed to the Program. Regardless of which benchmark a participating Floor Broker's growth is measured against, all Floor Broker's that opt to participate and seek to achieve the Incentive would be required to increase volume executed on the Exchange in order to receive the enhanced discount. Thus, the Exchange believes the proposed Program, is reasonable, equitable and not unfairly discriminatory to others.

The Exchange believes the proposal to continue to offer the Percentage Growth Incentive for 2019 based on ADV in

[5] *See* SR–NYSEArca–2018–80 (filed on December 13, 2018).

[6] To participate in the 2019 FB Prepay Program, Floor Brokers would have to notify the Exchange in writing by emailing *optionsbilling@nyse.com,* indicating a commitment to submit prepayment, by no later than December 31, 2018. The email to enroll in the Program would have to originate from an officer of the Floor Broker organization and, except as provided for below, represents a binding commitment through the end of 2019. To participate in the Program, prepayment for the balance of the year must be received by the close of business on January 31, 2019. *See* proposed Fee Schedule, FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM (the ''FB Prepay Program''). ''*Participating* Floor Broker organizations that qualify for the Percentage Growth Incentive will receive their *2019* rebate in January 2020.'' *See id.*

[7] The Percentage Growth Incentive would continue to exclude Customer volume, Firm Facilitation and Broker Dealer facilitating a Customer trades, and QCCs. Any volume calculated to achieve the Firm and Broker Dealer Monthly Fee Cap and the Limit of Fees on Options Strategy Executions, will likewise be excluded from the Percentage Growth Incentive because fees on such volume is already capped and therefore does not increase billable manual volume. *See* Fee Schedule, FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM, *supra* note 4.

[8] *See id.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

contract sides in 2019 is reasonable, equitable and not unfairly discriminatory because, just as under the existing program, this Incentive is designed to encourage Floor Brokers to increase their ADV in billable manual contract sides by certain percentages (correlated with Tiers) as measured against the two available benchmarks.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to the FB Prepayment Program may increase both inter-market and intra-market competition by incenting participants to direct their orders to the Exchange, which would enhance the quality of quoting and may increase the volume of contracts traded on the Exchange. To the extent that there is an additional competitive burden on non-Exchange participants, the Exchange believes that this is appropriate because the proposal should incent market participants to direct additional order flow to the Exchange, and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange would benefit all market participants and improve competition on the Exchange.

Given the robust competition for volume among options markets, many of which offer the same products, implementing programs to attract order flow, such as the proposed changes to the FB Prepayment Program, are consistent with the above-mentioned goals of the Act.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–95 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2018–95. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–95, and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00478 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84958; File No. SR–ISE–2018–101]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 26, 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 December 21, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'' or ''Penny Pilot'').

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2018.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2019, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2019. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2018, and ending November 30, 2018). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6)[8] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

[3] *See* Exchange Act Release No. 83531 (June 28, 2018), 83 FR 31243 (July 3, 2018) (SR–ISE–2018–57).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–101 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–101. 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 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–101 and should be submitted on or before February 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00470 Filed 1–30–19; 8:45 am]

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efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84988; File No. SR–CboeBZX–2018–040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

January 23, 2019.

On June 20, 2018, Cboe BZX Exchange, Inc. (''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of SolidX Bitcoin Shares issued by the VanEck SolidX Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

The proposed rule change was published for comment in the **Federal Register** on July 2, 2018.[3] On August 7, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On September 20, 2018, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] And on December 6, 2018, the Commission designated a longer period for Commission action on the proposed rule change.[7]

On January 22, 2019, BZX withdrew the proposed rule change (SR–CboeBZX–2018–040).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–00502 Filed 1–30–19; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10648]

Advisory Committee on Historical Diplomatic Documentation—Notice of Closed and Open Meetings for 2019

The Advisory Committee on Historical Diplomatic Documentation will meet on March 4, June 17, September 9, and December 9, 2019, in open session to discuss unclassified matters concerning declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series.

The Committee will meet in open session from 11:00 a.m. until noon in SA–4D Conference Room, Department of State, 2300 E Street NW, Washington, DC 20372 (Potomac Navy Hill Annex), on all four dates. RSVP and requests for reasonable accommodation should be sent as directed below:

- March 4, not later than February 27, 2019.
- June 17, not later than June 10, 2019.
- September 9, not later than September 4, 2019.
- December 9, not later than December 4, 2019.

Closed Sessions. The Committee's sessions in the afternoon of Monday, March 4, 2019; in the morning of Tuesday, March 5; in the afternoon of Monday, June 17, 2019; in the morning of Tuesday, June 18, 2019; in the afternoon of Monday, September 9, 2019; in the morning of Tuesday, September 10, 2019; in the afternoon of Monday, December 9, 2019; and in the

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83520 (June 26, 2018), 83 FR 31014 (July 2, 2018).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83792 (Aug. 7, 2018), 83 FR 40112 (Aug. 13, 2018). The Commission designated September 30, 2018, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Securities Exchange Act Release No. 84231 (Sept. 20, 2018), 83 FR 48665 (Sept. 26, 2018).

[7] *See* Exchange Act Release No. 84731 (Dec. 6, 2018), 83 FR 63933 (Dec. 12, 2018).

[8] 17 CFR 200.30–3(a)(12).

morning of Tuesday, December 10, 2019, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters properly classified and not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

RSVP Instructions. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. Government or military ID) are required for entrance into the Department of State building. Members of the public planning to attend the open meetings should RSVP, by the dates indicated above, to Julie Fort, Office of the Historian (202–955–0214). When responding, please provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. Government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the specified forms of ID, please consult with Julie Fort for acceptable alternative forms of picture identification.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://www.state.gov/documents/organization/242611.pdf,* for additional information.

Questions concerning the meeting should be directed to Renée A. Goings and Adam M. Howard, Acting, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20372, telephone (202) 955–0215, (email *history@state.gov*).

Note that requests for reasonable accommodation received after the dates indicated in this notice will be considered, but might not be possible to fulfill.

Renée A. Goings,

Acting Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 2019–00384 Filed 1–30–19; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 10647]

Notice of Receipt of Request From the Government of the Hashemite Kingdom of Jordan Under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

SUMMARY: Notice of receipt of request from Jordan for cultural property protection.

FOR FURTHER INFORMATION CONTACT: Andrew Cohen, Cultural Heritage Center, Bureau of Educational and Cultural Affairs: 202–632–6301; *culprop@state.gov,* include ''Jordan'' in the subject line.

SUPPLEMENTARY INFORMATION: The Government of Jordan has made a request to the Government of the United States under Article 9 of the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.* The United States Department of State received this request on November 26, 2018. Jordan's request seeks U.S. import restrictions on archaeological material representing Jordan's cultural patrimony. Pursuant to the authority vested in the Assistant Secretary of State for Educational and Cultural Affairs, and pursuant to 19 U.S.C. 2602(f)(1), notification of the request is hereby published. A public summary of Jordan's request and information about U.S. implementation of the 1970 UNESCO Convention will be available at the Cultural Heritage Center website: *https://eca.state.gov/cultural-heritage-center.*

Marie Therese Porter Royce,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–00517 Filed 1–30–19; 8:45 am]

BILLING CODE 4710–05–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Energy Resource Council (RERC) will hold a meeting Tuesday, February 19, 2019, and Wednesday, February 20, 2019, to discuss the draft results and associated documents of its' 2019 Integrated Resource Plan (IRP).

The RERC was established to advise TVA on its energy resource activities and the priority to be placed among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA).

DATES: The public meeting will be held on Tuesday, February 19, 2019, from 1:00 p.m. to 6:00 p.m., CST, and on Wednesday, February 20, 2019, from 8:30 a.m. to 11:30 a.m., CST.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 1200 Conference Center Boulevard, Murfreesboro, Tennessee, 37129, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Liz Upchurch, 865–632–8305, *efupchurch@tva.gov*.

SUPPLEMENTARY INFORMATION: The meeting agenda includes the following:

1. Introductions
2. Overview of the 2019 Integrated Resource Plan and Environmental Impact Statement status
3. Overview of the metrics and scorecard identified for the 2019 IRP
4. Public Comments
5. Council Discussion and Advice

The RERC will hear opinions and views of citizens by providing a public comment session starting at 5:00 p.m., CST, lasting up to one hour, on Tuesday, February 19, 2019. Persons wishing to speak are requested to register at the door between 1:00 p.m. and 5:00 p.m., CST, on Tuesday, February 19, 2019, and will be called on during the public comment period. TVA will set time limits for providing oral comments, once registered. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Energy Resource Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–9–D, Knoxville,

Tennessee 37902. Due to possible impacts from the partial government shutdown, this meeting notice may be published less than 15 days in advance of the meeting. Please check the TVA website at *www.tva.gov/rerc* for updates.

Dated: January 25, 2019.

Joseph J. Hoagland,

Vice President, Enterprise Relations and Innovation, Tennessee Valley Authority.

[FR Doc. 2019–00400 Filed 1–30–19; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on AIP Acquired Land for Change of Use From Aeronautical to Non-Aeronautical Use and Lease at Bainbridge-Decatur County Industrial Airport, Bainbridge, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, notice is being given that the FAA is considering a request from the Bainbridge-Decatur County Administrator to change approximately 7.62 acres of AIP acquired airport property located on the northeastern portion of Bainbridge-Decatur County Industrial Airport from aeronautical use to non-aeronautical use. The proposed land use is for non-aeronautical lease and use for the installation of a solar panel farm and access road. The land is owned and operated by the airport, but not currently in use or planned for aeronautical use.

DATES: Comments must be received on or before March 4, 2019.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Aimee McCormick, Planning Team Lead, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Alan Thomas, County Administrator, Decatur County at the following address: P.O. Box 726, Bainbridge, GA 39818.

FOR FURTHER INFORMATION CONTACT: Aimee McCormick, Planning Team Lead, Atlanta Airports District Office, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747, (404) 305–6799. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Decatur County Administrator to release approximately 7.62 acres of AIP acquired property at the Bainbridge-Decatur County Industrial Airport. The property will be leased with intent to install a solar panel farm. The location of the land relative to existing or anticipated aircraft noise contours greater than 65 ldn are not considered to be an issue. The proceeds from the lease of this property will be used for airport purposes. The proposed use of this property is considered a ''limited and unusual circumstance'' and therefore compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Bainbridge-Decatur County Industrial Airport.

Issued in Atlanta, Georgia, on December 27, 2018.

Rusty Nealis,

Acting Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2019–00567 Filed 1–30–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statements; Availability, etc.: Proposed Interim Fly Quiet (Draft Re-Evaluation)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability of the Draft Re-Evaluation of the O'Hare Modernization Environmental Impact Statement for the Proposed Interim Fly Quiet (Draft Re-Evaluation).

Location of Proposed Action: O'Hare International Airport, Des Plaines and DuPage River Watersheds, Cook and DuPage Counties, Chicago, Illinois (Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18, Township 41 North, Range 10 East, 3rd P.M.).

The Federal Aviation Administration (FAA) announces that the Draft Written Re-Evaluation of the O'Hare Modernization Environmental Impact Statement for the Proposed Interim Fly Quiet (Draft Re-Evaluation) for Chicago O'Hare International Airport, Chicago, Illinois is available for public review and comment.

The Draft Re-Evaluation analyzes and discloses the potential environmental impacts associated with the Proposed Interim Fly Quiet at O'Hare International Airport pursuant to the National Environmental Policy Act.

The FAA will host Public Workshops on the Draft Re-Evaluation. The Public Workshops on the Draft Re-Evaluation will be held on the following dates: Monday, February 4, 2019, at Belvedere Events and Banquets, 1170 West Devon Avenue, Elk Grove Village, Illinois 60007; Tuesday, February 5, 2019, at White Eagle Banquets, 6839 North Milwaukee Avenue, Niles, Illinois 60714; Wednesday, February 6, 2019, at Hanging Gardens Banquet Rooms, 8301 West Belmont Avenue, River Grove, Illinois 60171; and Thursday, February 7, 2019, at The Diplomat West, 681 West North Avenue, Elmhurst, Illinois 60126. Each Public Workshop will start at 2 p.m. (Central Standard Time), and registration to participate in the Public Workshops will conclude by 8 p.m. (Central Standard Time).

Representatives of FAA and its consultants will be available to provide information about the Draft Re-Evaluation. Spanish language translators will be available at the Public Workshops. If you need the assistance of a translator, other than Spanish, please call Ms. Amy Hanson at (847) 294–7354 by January 18, 2019.

The comment period is open as of Monday, January 14, 2019 and closes Wednesday, February 27, 2019. All comments are to be submitted to Amy Hanson of the FAA, directed below. Written comments must be postmarked and email must be sent by no later than midnight, Wednesday, February 27, 2019.

SUPPLEMENTARY INFORMATION: The Draft Re-Evaluation is available for review on line (*http://www.faa.gov/airports/airport_development/omp/ifq_re_eval/*) and at the following libraries in Illinois through February 27, 2019:

Addison Public Library, Arlington Heights Library, Bartlett Public Library, Bellwood Public Library, Bensenville Community Public Library, Berkeley Public Library, Bloomingdale Public Library, Carol Stream Public Library, the following Chicago libraries (Albany Park Library, Austin-Irving Library, Bezazian Library, Bucktown/Wicker Park Library, Budlong Woods Library, Conrad Sulzer Regional Library, Dunning Library, Edgebrook Library, Edgewater Library, Galewood/Mont Clare Library, Harold Washington Library, Humboldt Park Library, Independence Library, Jefferson Park Library, Lincoln/Belmont Library, Lincoln Park Library, Logan Square

Library, Mayfair Library, Merlo Library, North Austin Library, North Pulaski Library, Northtown Library, Oriole Park Library, Portage-Cragin Library, Roden Library, Rogers Park Library, Uptown Library, West Belmont Library), College of DuPage Library, Des Plaines Library, Downers Grove Library, Elk Grove Village Public Library, Elmhurst Library, Elmwood Park Public Library, Evanston Public Library, Forest Park Public Library, Franklin Park Library, Glen Ellyn Public Library, Glencoe Public Library, Glenside Public Library in Glendale Heights, Glenview Public Library, Hanover Park Branch Library, Eisenhower Public Library in Harwood Heights, Hillside Public Library, Hoffman Estates Library, Itasca Community Library, Lisle Library District, Helen Plum Library in Lombard, Maywood Public Library, Melrose Park Public Library, Morton Grove Public Library, Mount Prospect Public Library, Niles Public Library, Northbrook Public Library, Northlake Public Library, Oak Brook Public Library, Oak Park Public Library, Oakton Community College Library, Park Ridge Public Library, Prospect Heights Public Library, River Forest Public Library, River Grove Public Library, Rolling Meadows Library, Roselle Public Library, Schaumburg Township District Library, Schiller Park Public Library, Skokie Public Library, St. Charles Public Library, Villa Park Public Library, West Chicago Public Library, Wheaton Public Library, Wilmette Public Library, Winnetka-Northfield Library, Winnetka-Northfield Library—Northfield Branch, and Wood Dale Public Library.

Written comments, faxes and emails should be submitted to Amy Hanson of the FAA. The comment period is open as of Monday, January 14, 2019 and closes Wednesday, February 27, 2019. FAA requests that comments submitted online at *http://www.faa.gov/airports/airport_development/omp/IFQ_re_eval/*. Court reporters will be available to record verbal comments at the Public Workshops, computers will be available to provide comments online, and copies of comment forms will also be available. If you need the assistance of a translator, other than Spanish, please call Ms. Amy Hanson at (847) 294–7354 by January 18, 2019.

For Further Information or To Submit Comments via Email, Mail or Fax Contact: Amy Hanson, Environmental Protection Specialist, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018, FAX: 847–294–7046, email address: *IFQ@faa.gov*.

Issued in Des Plaines, IL, December 20, 2018.

Deb Bartell,

Manager, Chicago Airports District Office.

[FR Doc. 2019–00570 Filed 1–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Hartsfield-Jackson International Airport, Atlanta, GA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by City of Atlanta/Department of Aviation for Hartsfield-Jackson International Airport Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: The date of the FAA's determination on the noise exposure maps is December 19, 2018.

FOR FURTHER INFORMATION CONTACT: Felicia Reeves, Federal Aviation Administration, Southern Region/Atlanta Airports District Office, 1701 Columbia Ave., Room 220, College Park, GA 30337, (404) 305–6708.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Hartsfield-Jackson International Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) Part 150, effective December 19, 2018. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (the Act), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the airport operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the Noise Exposure Maps and accompanying documentation submitted by the City of Atlanta/Department of Aviation. The documentation that constitutes the ''Noise Exposure Maps'' as defined in 14 CFR 150.7 includes: Map A—Existing (Year 2017) Noise Exposure Map, Map B—Future (Year 2022), Flight Track System-Generated Flight Tracks, 2017 East/West Flow Corridors and Departure Profiles. The FAA has determined that these Noise Exposure Maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on December 19, 2018.

FAA's determination on the airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of 14 CFR part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that Program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under 14 CFR part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under 14 CFR 150.21, that the statutorily required consultation has been accomplished.

Copies of the full Noise Exposure Maps documentation and of the FAA's evaluation of the maps are available for examination by appointment at the following locations: Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Room 220, College Park GA 30337.

To arrange an appointment to review the documents and any questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Atlanta Airports District Office, College Park, GA on December 19, 2018.

Jesse Carriger,

ASO–610 Branch Manager, Southern Region Airports Division.

[FR Doc. 2019–00566 Filed 1–30–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Submission for OMB Review; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning a revision to a regulatory reporting requirement for national banks and federal savings associations titled ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by March 4, 2019.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0319, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0319'' in your comment. In general, the OCC will publish your comment on *www.reginfo.gov* without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0319, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov.*

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-Day comment period for this notice by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0319'' or ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $100 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's website under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions Under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0319.

Type of Review: Revision.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [2] (Dodd-Frank Act) requires certain financial companies, including national banks and federal savings associations, to conduct annual stress tests [3] and requires the primary financial regulatory agency [4] of those financial companies to issue regulations implementing the stress test requirements.[5] Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary

[1] On October 31, 2018, 83 FR 54805, the OCC published a 60-day notice for this information collection.

[2] Public Law 111–203, 124 Stat. 1376, July 2010.

[3] 12 U.S.C. 5365(i)(2)(A).

[4] 12 U.S.C. 5301(12).

[5] 12 U.S.C. 5365(i)(2)(C).

financial regulatory agency may require.[6]

On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[7] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be given confidential treatment (5 U.S.C. 552(b)(4)) to the extent permitted by law.

On May 24, 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended provisions in the Dodd-Frank Act and provided that, eighteen months after EGRRCPA's enactment, financial companies with total consolidated assets of less than $250 billion that are not bank holding companies will no longer be subject to the company-run stress testing requirements in section 165(i)(2) of the Dodd-Frank Act. In addition, on EGRRCPA's date of enactment, bank holding companies under $100 billion in total consolidated assets were no longer subject to section 165(i)(2). In order to avoid unnecessary burden for depository institutions and to maintain consistency between bank holding companies and depository institutions, the OCC, Board, and Federal Deposit Insurance Corporation extended the deadlines for all regulatory requirements related to section 165(i)(2) company-run stress testing for depository institutions with average total consolidated assets of less than $100 billion until November 25, 2019 (at which time both statutory exemptions will be in effect).[8] The OCC, in coordination with the Board and Federal Deposit Insurance Corporation, is in the process of revising its stress testing regulation to incorporate EGRRPCA's amendments.

In 2012, the OCC first implemented the reporting templates referenced in the final rule. *See* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012). The OCC is now revising them as described below.

The OCC intends to use the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions are required to submit reports using Comprehensive Capital Analysis and Review (CCAR) reporting form FR Y–14A.[9] The OCC also recognizes the Board has modified the FR Y–14A and, to the extent practical, the OCC has kept its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.[10] Therefore, the OCC is revising its reporting requirements to mirror the Board's proposed FR Y–14A for covered institutions. The changes include changes to accommodate the revised asset threshold necessitated by EGRRCPA. The changes also include the removal of the Retail Repurchase worksheet and various clarifications in the instructions. In addition to the changes that parallel the Board's changes to the FR Y–14A, the OCC is also removing or modifying certain items on the OCC Supplemental Schedule, which collects additional information not included in the FR Y–14A.

The OCC received one comment on the proposed revisions. The commenter requested clarification about an item on the OCC Supplemental Schedule. The information referenced by the commenter will not be collected in the revised Supplemental Schedule.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 8.

Estimated Total Annual Burden: 4,292 hours.

The OCC believes that the systems covered institutions use to prepare the FR Y–14 reporting templates to submit to the Board will also be used to prepare the reporting templates described in this notice. All comments will become a matter of public record. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 25, 2019.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019–00418 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–33–P

[6] 12 U.S.C. 5365(i)(2)(B).

[7] 77 FR 61238 (October 9, 2012) (codified at 12 CFR part 46).

[8] *https://www.occ.gov/news-issuances/news-releases/2018/nr-ia-2018-69a.pdf.*

[9] *http://www.federalreserve.gov/reportforms.*

[10] 83 FR 58771 (November 21, 2018).

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before March 4, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Form 5498 ESA—Coverdell ESA Contribution Information.

OMB Control Number: 1545–1815.

Type of Review: Extension without change of a currently approved collection.

Description: Form 5498–ESA is used by trustees and issuers of Coverdell Education Savings accounts to report contributions and rollovers to these accounts to the beneficiaries.

Form: 5498–ESA.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 38,861,546.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 298,500.

Estimated Time per Response: 0.12 hours.

Estimated Total Annual Burden Hours: 35,820.

Title: Notice 2018–81, Notice Regarding Certain Church Plan Clarifications under Section 336 of the PATH Act.

OMB Control Number: 1545–2279.

Type of Review: Revision of a currently approved collection.

Description: This notice describes the manner in which taxpayers notify the IRS of revocation of an election to aggregate or disaggregate certain church-related organizations under section 336(a) of the PATH Act. Churches and church-related organizations are allowed to make elections to aggregate or disaggregate for this purpose under section 414(c)(2)(C) and (D), which were added to the Code by section 336(a) of the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114–113 (129 Stat. 2242 (2015)) (PATH Act).

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 61.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 3.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 6.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 28, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–00429 Filed 1–30–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Fiscal Service 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 March 4, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Fiscal Service (FS)

1. Title: Notice of Reclamation.

OMB Control Number: 1530–0003.

Type of Review: Extension without change of a currently approved collection.

Description: FS Form 133 is utilized to notify financial institutions of an obligation to repay payments erroneously issued to a deceased Federal benefit payment recipient. The information collected from the financial institutions is used by Treasury to close out the request from a program agency to collect an EFT payment from the financial institution to which a beneficiary was not entitled.

Form: FS Form 133.

Affected Public: Business or Other for-profits.

Estimated Number of Respondents: 223,128.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 223,128.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 29,750.

2. Title: Claims Against the U.S. for Amounts Due in Case of a Deceased Creditor.

OMB Control Number: 1530–0004.

Type of Review: Extension without change of a currently approved collection.

Description: The information is required to determine who is entitled to funds of a deceased Postal Savings depositor or deceased award holder. The form properly completed with supporting documents enables the Judgement Fund Branch to decide who is legally entitled to payment.

Form: SF 1055.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 400.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 400.

Estimated Time per Response: 27 minutes.

Estimated Total Annual Burden Hours: 180.

3. Title: States Where Licensed for Surety.

OMB Control Number: 1530–0009.

Type of Review: Extension without change of a currently approved collection.

Description: Information is collected from insurance companies in order to provide Federal bond approving officers with this information. The listing of states, by company, appears in Treasury's Circular 570, ''Surety Companies Acceptable on Federal Bonds.''

Form: FS Form 2208.

Affected Public: Business or Other for-profits.

Estimated Number of Respondents: 262.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 262.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 262.

4. Title: Voucher for Payment of Awards.

OMB Control Number: 1530–0012.

Type of Review: Extension without change of a currently approved collection.

Description: Awards certified to Treasury are paid annually as funds are

received from foreign governments. Vouchers are mailed to awardholders showing payments due. Awardholders sign vouchers certifying that he/she is entitled to payment.

Form: FS Form 5135.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,400.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 1,400.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 700.

5. Title: Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement; and Depositary, Financial Agency, and Collateral Agreement.

OMB Control Number: 1530–0017.

Type of Review: Extension without change of a currently approved collection.

Description: These forms are used to give authority to financial institutions to become a depositary of the Federal Government. They also execute an agreement from the financial institutions they are authorized to pledge collateral to secure public funds with Federal Reserve Banks or their designees.

Form: FS Form 5902 and FS Form 5903.

Affected Public: Private Sector.

Estimated Number of Respondents: 15.

Frequency of Response: Two per year.

Estimated Total Number of Annual Responses: 30.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 30.

6. Title: Application for Disposition of Retirement Plan/Individual Retirement Bonds Without Admin. of Deceased Owners Estate.

OMB Control Number: 1530–0032.

Type of Review: Extension without change of a currently approved collection.

Description: The information is used to support a request for recognition as a person entitled to United States Retirement Plan and/or Individual Retirement bonds which belonged to a deceased owner when a legal representative has not been appointed for the estate and no such appointment is pending.

Form: FS Form 3565.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 350.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 350.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 117.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 28, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–00446 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–AS–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on February 7, 2019 on ''What Keeps Xi Up at Night: Beijing's Internal and External Challenges.''

DATES: The hearing is scheduled for Thursday, February 7, 2019 from 9:30 a.m. to 3:20 p.m.

ADDRESSES: Dirksen Senate Office Building, Room 106, Washington, DC 20002. A detailed agenda for the hearing will be posted on the Commission's website at *www.uscc.gov.* Also, please check the Commission's website for possible changes to the hearing schedule. *Reservations are not required to attend the hearing.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Leslie Tisdale Reagan, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *ltisdale@uscc.gov. Reservations are not required to attend the hearing.*

SUPPLEMENTARY INFORMATION:

Background: This is the first public hearing the Commission will hold during its 2019 report cycle. This hearing will examine the growing internal and external challenges the Chinese Communist Party (CCP) faces in its attempts to consolidate power at home and increase its influence abroad. The first panel would be designed to explore the implications of President Xi and the CCP's tightening control over economic and security policy making. The second panel would examine China's domestic challenges, considering China's economic weakness and financial sector risks, the risks and benefits of China's state-led economic policies, and the country's reliance on key foreign technologies. The third panel would examine China's external challenges, focusing on the People Liberation Army's shortcomings and the limits of Chinese soft, sharp, and hard power. The hearing will be co-chaired by Senator Carte Goodwin and Senator James Talent. Any interested party may file a written statement by February 7, 2019, by mailing to the contact above. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: January 28, 2019.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2019–00463 Filed 1–30–19; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service, Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Health Services Research and Development Service Scientific Merit Review Board will conduct in-person and teleconference meetings of its thirteen Health Services Research (HSR) subcommittees on the dates below from 8:00 a.m. to approximately 4:30 p.m. (unless otherwise listed) at the 20 F Street Conference Center, 20 F Street NW, Washington, DC 20001 (unless otherwise listed):

- HSR1—Health Care and Clinical Management on March 5–6, 2019;

• HSR2—Behavioral, Social, and Cultural Determinants of Health and Care on March 7–8, 2019;
• HSR3—Healthcare Informatics on March 5, 2019;
• HSR4—Mental and Behavioral Health on March 7–8, 2019;
• HSR5—Health Care System Organization and Delivery on March 7, 2019;
• HSR6—Long-Term Care, Aging and Support Services on March 5, 2019;
• HSR7—Opioid and Pain Management Special Emphasis on March 6, 2019;
• HSR9—Learning Health Care System Initiative on March 8, 2019;
• MRA0—Mentored Research on March 5–6, 2019;
• HS8A—Randomized Program Evaluations on March 7–8, 2019;
• HQ6, HQ7, HQ8—QUERI on March 7–8, 2019;
• HSRN1—Innovation (Access, LTSS) on March 5, 2019 at 1100 1st St. NE, Washington, DC 20002;
• HSRN2—Innovation (Suicide Prevention, Non-Opioid Pain) on March 6, 2019

The purpose of the Board is to review health services research and development applications involving: The measurement and evaluation of health care services; the testing of new methods of health care delivery and management; and mentored research. Applications are reviewed for scientific and technical merit, mission relevance, and the protection of human and animal subjects. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

Each subcommittee meeting of the Board will be open to the public the first day for approximately one half-hour from 8:00 a.m. to 8:30 a.m. at the start of the meeting on March 5 (MRA0, HSR1, HSR3, HSR6, HSRN1), March 6 (MRA0, HSR1, HSR7, HSRN2), March 7 (HSR2, HSR4, HSR5, HS8A, HQ6/HQ7/HQ8), and March 8 (HSR2, HSR4, HSR9, HS8A, HQ6/HQ7/HQ8), to cover administrative matters and to discuss the general status of the program. Members of the public who wish to attend the open portion of the subcommittee meetings may dial 1–800–767–1750, participant code 10443.

The remaining portion of each subcommittee meeting will be closed for the discussion, examination, reference to, and oral review of the intramural research proposals and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meetings. Those who plan to participate during the open portion of a subcommittee meeting should contact Ms. Shannon Jordan, SMRB Program Manager, Department of Veterans Affairs, Health Services Research and Development Service (10P9H), 810 Vermont Avenue NW, Washington, DC 20420, or by email at *Shannon.Jordan2@va.gov*. For further information, please call Ms. Jordan at (202) 443–5744.

Dated: January 28, 2019.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–00426 Filed 1–30–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Reimbursement for Caskets and Urns for Burial of Unclaimed Remains in a National Cemetery or a VA-Funded State or Tribal Veterans' Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is updating the monetary reimbursement rates for caskets and urns purchased for the interment in a VA national cemetery or a VA-funded state or tribal veterans' cemetery of Veterans who die with no known next of kin and where there are insufficient resources for furnishing a burial container. The purpose of this notice is to notify interested parties of the rates that will apply to reimbursement claims that occur during calendar year (CY) 2019.

FOR FURTHER INFORMATION CONTACT: Jane Kang, Program Analyst, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: (202) 461–6216 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 2306(f) of title 38, U.S.C., authorizes VA National Cemetery Administration (NCA) to furnish a casket or urn for interment in a VA national cemetery or a VA-funded state or tribal veterans' cemetery of the unclaimed remains of Veterans for whom VA cannot identify a next of kin and determines that sufficient financial resources for the furnishing of a casket or urn for burial are not available. VA implemented regulations to administer this authority as a reimbursement benefit in section 38.628 of title 38, Code of Federal Regulations.

Reimbursement for a claim received in any CY will not exceed the average cost of a 20-gauge metal casket or a durable plastic urn during the fiscal year (FY) preceding the CY of the claim. Average costs are determined by market analysis for 20-gauge metal caskets, designed to contain human remains, with a gasketed seal, and external rails or handles. The same analysis is completed for durable plastic urns, designed to contain human remains, which include a secure closure to contain the cremated remains.

Using this method of computation, in FY 2018, the average costs for caskets were determined to be $2,681 for caskets and $162 for urns. Accordingly, the maximum reimbursement rates payable for qualifying interments occurring during CY 2019 are $2,681 for caskets and $162 for urns.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on January 2, 2019, for publication.

Dated: January 2, 2019.

Jeffrey M. Martin,

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

[FR Doc. 2019–00379 Filed 1–30–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Homeland Security

8 CFR Part 214
Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Cap-Subject Aliens; Final Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2326–19; DHS Docket No. USCIS–2008–0014]

RIN 1615–AB71

Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Cap-Subject Aliens

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This final rule amends Department of Homeland Security (''DHS'' or ''the Department'') regulations governing petitions filed on behalf of H–1B beneficiaries who may be counted toward the 65,000 visa cap established under the Immigration and Nationality Act (''H–1B regular cap'') or beneficiaries with advanced degrees from U.S. institutions of higher education who are eligible for an exemption from the regular cap (''advanced degree exemption''). The amendments require petitioners seeking to file H–1B petitions subject to the regular cap, including those eligible for the advanced degree exemption, to first electronically register with U.S. Citizenship and Immigration Services (''USCIS'') during a designated registration period, unless the registration requirement is temporarily suspended. USCIS is suspending the registration requirement for the fiscal year 2020 cap season to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable.

This final rule also changes the process by which USCIS counts H–1B registrations (or petitions, for FY 2020 or any other year in which the registration requirement will be suspended), by first selecting registrations submitted on behalf of *all* beneficiaries, including those eligible for the advanced degree exemption. USCIS will then select from the remaining registrations a sufficient number projected as needed to reach the advanced degree exemption. Changing the order in which USCIS counts these separate allocations will likely increase the number of beneficiaries with a master's or higher degree from a U.S. institution of higher education to be selected for further processing under the H–1B allocations. USCIS will proceed with implementing this change to the cap allocation selection process for the FY 2020 cap season (beginning on April 1, 2019), notwithstanding the delayed implementation of the H–1B registration requirement.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Buten, Adjudications (Policy) Officer, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529–2140; Telephone (202) 272–8377.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose and Summary of the Regulatory Action

DHS is amending its regulations to require petitioners seeking to file H–1B cap-subject petitions, which includes petitions subject to the regular cap and those asserting eligibility for the advanced degree exemption, to first electronically register with USCIS.

This final rule also amends the process by which USCIS selects H–1B petitions toward the projected number of petitions needed to reach the regular cap and advanced degree exemption. Changing the order in which petitions are selected will likely increase the total number of petitions selected under the regular cap for H–1B beneficiaries who possess a master's or higher degree from a U.S. institution of higher education each fiscal year.

B. Legal Authority

The Secretary of Homeland Security's authority for these regulatory amendments is found in various sections of the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* General authority for issuing this final rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws, as well as section 112 of the HSA, 6 U.S.C. 112, which vests all of the functions of DHS in the Secretary and authorizes the Secretary to issue regulations. Further authority for these regulatory amendments is found in:

- Section 214(a)(1) of the INA, 8 U.S.C. 1184(a)(1), which authorizes the Secretary to prescribe by regulation the

terms and conditions of the admission of nonimmigrants;

• Section 214(c) of the INA, 8 U.S.C. 1184(c), which, *inter alia,* authorizes the Secretary to prescribe how an importing employer may petition for an H nonimmigrant worker, and the information that an importing employer must provide in the petition; and

• Section 214(g) of the INA, 8 U.S.C. 1184(g), which, *inter alia,* prescribes the H–1B and H–2B numerical limitations, various exceptions to those limitations, and criteria concerning the order of processing H–1B and H–2B petitions.

C. Summary of Changes From the Notice of Proposed Rulemaking

Following careful consideration of public comments received, including relevant data provided by stakeholders, DHS has made a few modifications to the regulatory text proposed in the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on December 3, 2018. *See* 83 FR 62406. Those changes include the following:

• *Initial registration period.* In the final rule, DHS is responding to a public comment by revising proposed 8 CFR 214.2(h)(8)(iii)(A)(*3*), a provision that identifies the initial registration period. In the NPRM, DHS proposed that USCIS would announce the start and end dates of the initial registration period on the USCIS website, but did not specify when these periods would be announced. In response to a comment suggesting that DHS include a 30-day notice requirement prior to the commencement of the initial registration period, DHS is adding that USCIS will announce the start of the initial registration period at least 30 calendar days in advance of such date. In addition, DHS will publish a notice in the **Federal Register** to announce the initial implementation of the H–1B registration process in advance of the cap season in which such process will be implemented.

• *Limitation on requested start date.* In the final rule, DHS is responding to public comment by revising proposed 8 CFR 214.2(h)(8)(iii)(A)(*4*), a provision that identifies when a petitioner may submit a registration during the initial registration period. In the NPRM, DHS proposed that the requested start date for the beneficiary be the first business day for the applicable fiscal year. A commenter pointed out that this requirement created a mismatch in the date requirement for cap-gap protection and the proposed date requirement for this new registration process, which could make it impossible for H–1B petitioners and beneficiaries to receive the cap-gap protections afforded by 8 CFR 214.2(f)(5)(vi). In order to correct this mismatch, DHS is removing the word ''business'' and revising the text to refer to the first day for the applicable fiscal year.

• *Filing period.* In the final rule, DHS is responding to public comments by revising proposed 8 CFR 214.2(h)(8)(iii)(D)(*2*), a provision that indicates the filing period for H–1B cap-subject petitions. In the NPRM, DHS proposed that the filing period will be at least 60 days. In response to public comments stating that 60 days is an insufficient amount of time for a company to gather all the necessary documentation to properly file the petition, DHS is revising the filing period to be at least 90 days.[1]

• *Eligible for exemption.* In this final rule, DHS is making several non-substantive changes to the regulatory text as proposed to ensure that the terminology used is consistent with the statute when describing petitions, and associated registrations, filed on behalf of those who may be eligible for exemption under section 214(g)(5)(C) of the INA, 8 U.S.C. 1184(g)(5)(C). For example, in 8 CFR 214.2(h)(8)(iii)(A)(*5*), DHS deleted ''counted'' and replaced it with ''eligible for exemption.'' Similar changes were made in 8 CFR 214.2(h)(8)(iii)(A)(*1*), (h)(8)(iii)(A)(*6*)(*i*) and (ii), (h)(8)(iii)(D), and (h)(8)(iv)(B)(*1*).

• *Petitions determined not to be exempt.* In this final rule, DHS is making non-substantive edits in 8 CFR 214.2(h)(8)(iv)(B) to clarify how USCIS may process petitions, when the registration requirement is suspended, that claim exemption from the numerical restrictions but are determined not to be exempt.

With the exception of changes discussed in this final rule, DHS is finalizing this rule as proposed.

D. Summary of Costs, Benefits, and Transfers

DHS is amending its regulations governing the process for petitions filed on behalf of cap-subject H–1B workers. Specifically, this final rule adds a registration requirement for petitioners seeking to file H–1B cap-subject petitions on behalf of foreign workers. Additionally, this final rule changes the order in which H–1B cap-subject registrations will be selected towards the applicable projections needed to meet the annual H–1B regular cap and advanced degree exemption in order to increase the odds of selection for H–1B beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education.

All petitioners seeking to file an H–1B cap-subject petition will have to submit a registration, unless the registration requirement is suspended by USCIS consistent with this final rule. As required under this final rule and the registration requirement, when applicable, only those whose registrations are selected (termed ''selected registrant'' [2] for purposes of this analysis) will be eligible to file an H–1B cap-subject petition for those selected registrations during the associated filing period. Therefore, as selected registrants under the registration requirement, selected petitioners will incur additional opportunity costs of time to complete the electronic registration relative to the costs of completing and filing the associated H–1B petition, the latter costs being unchanged from the current H–1B petitioning process. Conversely, those who complete registrations that are unselected because of excess demand (termed ''unselected registrant'' for purposes of this analysis) will experience cost savings relative to the current process, as they will no longer have to complete an entire H–1B cap-subject petition that ultimately does not get selected for USCIS processing and adjudication as done by current unselected petitioners, unless the registration requirement is suspended.

To estimate the costs of the registration requirement, DHS compared the current costs associated with the H–1B petition process to the anticipated costs imposed by the additional registration requirement. DHS compared costs specifically for selected and unselected petitioners because the impact of the registration requirement to each population is not the same. Current costs to selected petitioners are the sum of filing fees associated with each H–1B cap-subject petition and the opportunity cost of time to complete all associated forms. Current costs to unselected petitioners are only the opportunity cost of time to complete forms and cost to

[1] In the NPRM, DHS discussed in the preamble to the proposal to stagger filing periods, such that the initial date after which petitions based on selected registrations could be filed would be spread out over time. However, in response to comments concerning the potential for negative impact for beneficiaries relying on existing cap-gap provisions in 8 CFR 214.2(f)(5)(vi), DHS is not proceeding with staggered filing periods in this final rule.

[2] DHS notes that one entity may submit multiple registrations which could result in a mix of selected and unselected outcomes. For the purpose of this analysis, the terms ''selected registrant'' and ''unselected registrant'' refer to the originator of a submission based on its outcome and should not be deemed a unilateral label for a single entity. Using this terminology it is possible for a single entity to experience impacts simultaneously as a selected registrant and as an unselected registrant.

mail the petition since USCIS returns the H–1B cap-subject petition and filing fees to unselected petitioners.

Under this final rule, when registration is required, the opportunity cost of time associated with registration will be a cost to all petitioners (selected and unselected), but those whose registrations are not selected will be relieved from the opportunity cost associated with completing and mailing the entire H–1B cap-subject petitions. Therefore, DHS estimates the costs of this rule to selected petitioners for completing an H–1B cap-subject petition as the sum of new registration costs and current costs. DHS estimates that the costs of this final rule to unselected petitioners, when registration is required, will only result from the estimated opportunity costs associated with registration. Overall, when registration is required, unselected petitioners will experience a cost savings relative to the current H–1B cap-subject petitioning process; DHS estimates these cost savings by subtracting new registration costs from current costs of preparing an H–1B cap-subject petition. These estimated quantitative cost savings will be a benefit that will accrue to only those with registrations that were not selected.

Currently, the aggregate cost for all selected petitioners to complete entire H–1B cap-subject petitions is estimated to be between $132.9 million and $165.5 million, depending on who petitioners use to prepare a petition. These current costs to complete and file an H–1B cap-subject petition are based on a 5-year petition volume average and may differ across sets of fiscal years. Current costs are not changing for selected petitioners as a result of this final rule. Rather, the registration requirement under this final rule, except when suspended, would add a new opportunity cost of time to selected petitioners who will continue to face current H–1B cap-subject petition costs. DHS estimates the added opportunity cost of time to selected petitioners to comply with the registration requirement in this final rule would range from $6.2 million to $10.3 million, again depending on who petitioners use to submit a registration and prepare a petition. Therefore, under this final rule, and when required to register, DHS estimates the adjusted aggregate total cost for all selected petitioners to complete their entire H–1B cap-subject petitions will be between $134.7 million and $171.4 million. Since these petitioners already file Form I–129, only the registration costs of $6.2 million to $10.3 million are considered new costs.

When registration is required under this final rule, unselected petitioners will experience an overall cost savings, despite new opportunity costs of time associated with the registration requirement. Currently for unselected petitioners, the total cost associated with the H–1B process is $53.5 million to $85.6 million, depending on who petitioners use to prepare the petition. The difference between total current costs for selected and unselected petitioners in an annual filing period consists of fees returned to unselected petitioners. DHS estimates the total costs to unselected petitioners for registration, when required, will range from $6.2 million to $10.1 million. DHS estimates a cost savings will occur because unselected petitioners will avoid having to file an entire H–1B cap-subject petition and only have to submit a registration, unless the registration requirement is suspended. Therefore, the difference between total current costs and total new costs for all unselected petitioners when registration is required will represent a cost savings ranging from $47.3 million to $75.5 million, again depending on who petitioners use to submit the registration.

The government will also benefit from the registration requirement and process by no longer having to receive, handle, and return large numbers of petitions that are currently rejected because of excess demand (unselected petitions), except in those instances when the registration requirement is suspended. These activities will save DHS an estimated $1.6 million annually when registration is required. USCIS will, however, have to expend a total of about $1.5 million in the initial development of the registration website. This cost to the government is considered a one-time cost. DHS recognizes that there could be some additional unforeseen development and maintenance costs or costs from refining the registration system in the future. However, DHS cannot predict what these costs would be at this time and so was not able to estimate these costs. Currently there are no additional costs for annual maintenance of the servers because the registration system will be run on existing servers. Since these costs are already incurred regardless of this rulemaking, DHS did not add any estimated costs for server maintenance.

Assuming that there is no expansion in the number of registrations, the net quantitative impact of this registration requirement is an aggregate cost savings to petitioners and to government ranging from $43.4 million to $62.7 million annually. Using lower bound figures, the net quantitative impact of this registration requirement is cost savings of $434.2 million over ten years. Discounted over ten years, these cost savings would be $381.2 million based on a discount rate of 3 percent and $325.7 million based on a discount rate of 7 percent. Using upper bound figures, the net quantitative impact of this registration requirement is cost savings of $626.8 million over ten years. Discounted over ten years, these cost savings will be $550.5 million based on a discount rate of 3 percent and $470.6 million based on a discount rate of 7 percent.

DHS notes that these overall cost savings result only in years when registration is required and the demand for registrations and the subsequently filed petitions exceeds the number of available visas needed to meet the regular cap and the advanced degree exemption. For years where DHS has demand that is less than the number of available visas, this registration requirement would result in increased costs. For this final rule to result in net quantitative cost savings, at least 110,182 petitions (registrations and subsequently filed petitions under the final rule, unless the registration requirement is suspended) will need to be received by USCIS based on lower bound cost estimates. For upper bound cost estimates, USCIS will need to receive at least 111,137 registrations and subsequently filed petitions for this rule to result in net quantitative cost savings.

The change to the petition selection process under this final rule could result in greater numbers of highly educated workers with degrees from U.S. institutions of higher education entering the U.S. workforce under the H–1B program. USCIS estimates that the change will result in an increase in the number of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education selected by 16 percent (or 5,340 workers each year). If there is an increase in the number of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education, wage transfers may occur. These transfers would be borne by companies whose petitions, filed for beneficiaries who are not eligible for the advanced degree exemption (*e.g.* holders of bachelors degrees and holders of advanced degrees from foreign institutions of higher education), might have been selected and ultimately approved but for the reversal of the selection order.

Table 1 provides a detailed summary of the final changes and their impacts.

Table 1: Summary of Provisions and Impacts		
Current and Final Provisions	**Expected Cost of the Final Provision**	**Expected Benefit of the Final Provision**
Currently, all petitioners who file on behalf of an H-1B worker must complete and file Form I-129 along with a certified DOL Labor Condition Application (LCA). The total current cost for all selected petitioners to file and complete entire H-1B cap-subject petitions ranges from $132.9 million to $165.5 million. For unselected petitioners, the total current cost is $53.5 million to $85.6 million. This final rule requires all petitioners who seek to hire a cap-subject H-1B worker to register for each prospective H-1B worker for whom they seek to file a cap-subject H-1B petition, unless USCIS suspends the registration requirement. When registration is required, only those petitioners whose registrations are selected may proceed to complete and file an H-1B cap-subject petition.	**Petitioners -** • For current selected petitioners, when registration is required, the final rule will add an additional annual opportunity cost of time ranging from $6.2 million to $10.3 million, depending on who the petitioner uses to submit the registration. Therefore, the total costs of registering and completing and filing H-1B cap-subject petitions will range from $134.7 million to $171.4 million to this population annually, depending on the type of petition preparer. • For current unselected petitioners, when registration is required, they will experience an overall cost savings, though the final rule would add an opportunity cost of time ranging from $6.2 million to $10.1 million to this population annually, depending on who petitioners use to submit the registration. **Government -** • The final rule will cost the government about $1.5 million to initially develop the registration	**Petitioners -** • Petitioners whose registrations are not selected will have cost savings that will range from $47.3 million to $75.5 million, when registration is required, from no longer having to complete and file H-1B cap-subject petitions along with mailing costs despite a new opportunity cost of time to submit their registration. **Government -** • USCIS will save $1.6 million annually in processing and return shipping costs, when registration is required, as fewer petitions will be filed with USCIS based on registrations that are not selected.

	website. This cost to the government is considered a one-time cost. Annual maintenance, including running the registration website servers and the labor costs associated with server maintenance, are reported as negligible. DHS recognizes that there could be some additional unforeseen development and maintenance costs or costs from refining the registration system in the future. However, DHS cannot predict what these costs would be at this time and thus cannot estimate these costs. Currently there are no additional costs for annual maintenance of the servers because the registration system will be run on existing servers. Since these costs are already incurred regardless of this rulemaking, DHS did not estimate any costs for maintenance.	
Under the current H-1B selection process, if the regular cap and advanced degree exemption are reached in the first five business days that cap-subject petitions can be filed, USCIS randomly selects sufficient H-1B petitions to reach the H-1B 20,000 advanced degree exemption first. Then, USCIS randomly selects	**Petitioners -** • The selection process under this final rule could decrease the number of cap-subject H-1B petitions for beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities, or foreign advanced degrees by up to 5,340 workers. This potential decrease could	**Petitioners and Government** • The selection process under this final rule could increase the number of cap-subject H-1B petitions that are selected for beneficiaries with master's degrees or higher from U.S. institutions of higher education by an estimated 16 percent (or 5,340 workers annually). DHS believes the increase in the

sufficient H-1B petitions from the remaining pool of beneficiaries, including those not selected in the advanced degree exemption, to reach the H-1B 65,000 regular cap limit. USCIS rejects all remaining unselected H-1B cap-subject petitions. This final rule reverses the selection process so that USCIS will randomly select registrations (petitions if the registration requirement is suspended) for the H-1B regular cap first, including registrations for petitions eligible for the H-1B advanced degree exemption. Then USCIS will randomly select registrations for the H-1B advanced degree exemption.	result in some higher labor costs to petitioners assuming that beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities or foreign advanced degrees are paid less than and replaced by beneficiaries with master's degrees from U.S. institutions of higher education. • DHS does not anticipate, as a result of the new selection process, petitioning employers will suffer economic harm from the decreased probability of selecting H-1B petitions eligible only under regular cap.	number of H-1B beneficiaries with a master's degree or higher from a U.S. institution of higher education will likely result in more highly educated workers entering the U.S. workforce. This could benefit the U.S. economy if those workers have a higher net value to the economy than the H-1B workers that they replace.

This final rule will also allow for the H–1B cap and advanced degree exemption selections to take place in the event that the registration system is inoperable for any reason and needs to be suspended. If temporary suspension of the registration system is necessary, then the costs and benefits described in this analysis resulting from registration for the petitioners and government will not apply during any period of temporary suspension. However, the reverse selection order will still take place and is anticipated to yield a higher proportion of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education being selected.

E. Effective Date

This final rule will be effective on April 1, 2019, 60 days from the date of publication in the **Federal Register**.

F. Implementation

The changes in this final rule will apply to all Form I–129 H–1B cap-petitions, including those for the advanced degree exemption, filed on or after the effective date of the final rule. The treatment of Form I–129 H–1B cap-petitions filed prior to the effective date of this final rule will be based on the regulatory requirements in place at the time the petition is properly filed. DHS has determined that this manner of implementation best balances operational considerations with fairness to the public.

USCIS will be suspending the registration requirement until it can complete all requisite user testing of the new H–1B registration system and otherwise ensures the system and process are fully operable, and addresses concerns raised by commenters in response to the proposed rule. DHS will publish a notice in the **Federal Register** to announce the initial implementation of the registration process in advance of the H–1B cap season in which the registration process will be first implemented. USCIS will also engage in stakeholder outreach and provide training to the regulated public on the registration system in advance of its implementation. Consistent with this final rule, USCIS will formally announce the temporary suspension of the registration requirement for FY 2020 on the USCIS website following the effective date of the final rule.

II. Background

A. The H–1B Visa Program and Numerical Cap and Exemptions

The H–1B visa program allows U.S. employers to temporarily hire foreign workers to perform services in a specialty occupation, services related to a Department of Defense (DOD) cooperative research and development project or coproduction project, or services of distinguished merit and ability in the field of fashion modeling. *See* INA 101(a)(15)(H)(i)(b), 8 U.S.C. 1101(a)(15)(H)(i)(b); Public Law 101–649, section 222(a)(2), 104 Stat. 4978 (Nov. 29, 1990); 8 CFR 214.2(h). A specialty occupation is defined as an occupation that requires (1) theoretical and practical application of a body of highly specialized knowledge and (2) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum qualification for entry into the occupation in the United States. *See* INA 214(i)(l), 8 U.S.C. 1184(i)(l).

Congress has established limits on the number of workers who may be granted initial H–1B nonimmigrant visas or status each fiscal year (commonly known as the ''cap''). *See* INA section

214(g), 8 U.S.C. 1184(g). The total number of workers who may be granted initial H–1B nonimmigrant status during any fiscal year currently may not exceed 65,000. *See* INA section 214(g), 8 U.S.C. 1184(g). Certain petitions are exempt from the 65,000 numerical limitation. *See* INA section 214(g)(5) and (7), 8 U.S.C. 1184(g)(5) and (7). The annual exemption from the 65,000 cap for H–1B workers for those who have earned a qualifying U.S. master's or higher degree may not exceed 20,000 workers.[3] *See* INA section 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C).

B. Current Selection Process

Under the current H–1B cap filing and selection process, USCIS monitors the number of H–1B petitions it receives at each service center in order to manage the H–1B allocations. Petitioners may file H–1B petitions as early as six months ahead of the actual date of need (commonly referred to as the employment start date). *See* 8 CFR 214.2(h)(9)(i)(B). Because of this, USCIS routinely receives hundreds of thousands of H–1B petitions in early April each year (for visas allocated for the following fiscal year) and this period is informally recognized as an H–1B ''cap season.'' Currently, USCIS monitors the number of H–1B cap-subject petitions received and notifies the public of the date that USCIS received a sufficient number of petitions needed to reach the numerical limit (the ''final receipt date''). *See* 8 CFR 214.2(h)(8)(ii)(B). USCIS then may randomly select from the cap-subject petitions received on the final receipt date the projected number of petitions needed to reach the limit.

If USCIS receives sufficient H–1B petitions to reach the projected number of petitions to meet both the regular cap and the advanced degree exemption for the upcoming fiscal year within the first five business days, USCIS first randomly selects H–1B petitions subject to the advanced degree exemption. *Id.* Once the random selection process for the advanced degree exemption is complete, USCIS then conducts the random selection process for the regular cap, which includes the remaining unselected petitions filed for, but not selected in, the advanced degree exemption. Once the random selection process for the regular cap is complete, USCIS rejects all remaining H–1B cap-subject petitions not selected during one of the random selections. *See* 8 CFR 214.2(h)(8)(ii)(D).

C. Final Rule

Following careful consideration of public comments received, DHS has made a few modifications to the regulatory text proposed in the NPRM (as described above in Section I.C.). The rationale for the proposed rule and the reasoning provided in the background section of that rule remain valid with respect to these regulatory amendments. Section III of this final rule includes a detailed summary and analysis of public comments that are pertinent to the proposed rule and DHS's role in administering the Registration Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Cap-Subject Aliens. A brief summary of comments deemed by DHS to be out of scope or unrelated to this rulemaking, making a detailed substantive response unnecessary, is provided in Section III.J. Comments may be reviewed at the Federal Docket Management System (FDMS) at *http://www.regulations.gov,* docket number USCIS–2008–0014.

III. Public Comments on the Proposed Rule

A. Summary of Public Comments

In response to the proposed rule, DHS received 817 comments during the 30-day public comment period. Of these, 11 comments were duplicate submissions and approximately 321 were letters submitted through mass mailing campaigns. DHS considered all of these comment submissions. Commenters consisted of individuals (including U.S. workers), law firms, labor organizations, professional organizations, advocacy groups, nonprofit organizations, and representatives from State and local governments. Some commenters expressed support for the rule and/or offered suggestions for improvement. Of the commenters opposing the rule, many commenters expressed opposition to a part of or all of the proposed rule. Some just expressed general opposition to the rule without suggestions for improvement. For many of the public comments, DHS could not ascertain whether the commenter supported or opposed the proposed rule. A number of comments received addressed subjects beyond those covered by the proposed rule, and were deemed out of scope.

DHS has reviewed all of the public comments received in response to the proposed rule and is addressing relevant comments in this final rule.[4] DHS's responses are grouped by subject area, with a focus on the most common issues and suggestions raised by commenters. DHS is not addressing comments seeking changes in U.S. laws, regulations, or agency policies that are out of scope and unrelated to the changes to 8 CFR part 214 it proposed in the NPRM.

B. Statutory and Legal Issues

Comment: A few commenters stated that the proposed reversal of selection order was within USCIS's congressional authority under the Immigration and Nationality Act (INA). For example, a company commented that reordering the lottery is within the reasonable discretion of the Department under the INA. The commenter argued that ambiguity and silence in the statute is properly read as Congressional delegation to DHS and USCIS to construct a reasonable H–1B allocation process.

Response: DHS agrees with the commenter that the reversal of the selection order is permissible based on the general authority provided to DHS under sections 103(a), 214(a) and (c) of the INA, 8 U.S.C. 1103, 1184(a) and (c), and section 112 of the HSA, 6 U.S.C. 112. As discussed in more detail in response to the next comment, DHS also agrees that the statute is not clear as to how the numerical allocations must be counted, and that reversal of the selection order is a reasonable interpretation of ambiguous statutory text.

Comment: Many commenters, including companies, attorneys, professional associations, and trade associations, questioned whether USCIS has the statutory authority to reverse the selection order. Some commenters stated changes to the cap and selection order can only be made through Congress. A form letter campaign and other commenters argued that existing law clearly indicates individuals with a U.S. master's degree or higher are not

[3] The total number of workers who may be issued an initial H–1B visa or provided initial H–1B status in a given year is limited to 85,000 (up to 65,000 under the regular cap plus the 20,000 advanced degree exemption). However, there are various other exemptions that expand this total. Other exemptions from the numerical allocations include those under INA 214(g)(5)(A) and (B), as well as an exemption, with certain exceptions, for those previously counted under the numerical allocations but who are applying for time remaining on their 6-year period of authorized admission.

[4] DHS published a proposed rule in 2011 which, similar to this rule, proposed to require employers seeking to file H–1B cap-subject petitions to first electronically register with USCIS during a designated registration period. Registration Requirement for Petitioners Seeking to File H–1B Petitions on Behalf of Aliens Subject to the Numerical Limitations 76 FR 11686 (Mar. 3, 2011)(hereafter the ''2011 NPRM''). DHS sought and received public comments on the proposed rule in 2011. However, the 2011 NPRM has been withdrawn, and superseded by the December 3, 2018 NPRM, and comments to the 2011 NPRM will not be addressed here.

subject to the H–1B cap until after 20,000 exempted visas are issued. Many commenters referenced the statutory language in 8 U.S.C. 1184(g)(5) as the basis for their argument that USCIS may lack the statutory authority to conduct the general visa lottery for the 65,000 H–1B visas prior to the lottery for the 20,000 U.S. master's degree petitions that are exempt from the general lottery. For example, an attorney argued that under 8 U.S.C. 1184(g)(5), a U.S. master's degree holder cannot be considered under the regular cap of 65,000 visas until the master's allocation of 20,000 has first been extinguished. Another commenter argued that USCIS is misinterpreting its authority as granted by Congress. The commenter stated that Congress did not mandate an additional 20,000 visas be granted to beneficiaries with a U.S. advanced degree, but rather that up to 20,000 beneficiaries with a U.S. advanced degree would be considered cap-exempt annually. The commenter asserted that any effort to subject a beneficiary with a U.S. advanced degree to the annual regular H–1B cap before the advanced degree visas are allocated is beyond the authority Congress has granted USCIS. In addition, the commenter asserted that the proposed selection method also fails to account for variations in filing levels. Specifically, in years when insufficient filings are made to exhaust the advanced degree exemption allocation, the selection process described could allocate cap visas to advanced degree applicants who would otherwise be considered cap-exempt, thus leaving cap-exemptions available and unused for beneficiaries with a U.S. advanced degree. The proposal also would potentially reserve remaining visas for beneficiaries with a U.S. advanced degree even if their employer filed the petition after an employer filing for a beneficiary who does not have a U.S. advanced degree, which the commenter asserted is also in violation of Congress' directive that visas be allocated to petitions in the order received. A trade association requested that USCIS provide a more robust legal explanation to justify how its proposed changes to the counting of visas is not only consistent with Congress' intentions, but also Congress' action in creating 8 U.S.C. 1184(g)(5)(C).

Response: DHS believes that changing the order in which registrations or petitions, as applicable, are selected will result in a selection process that is a reasonable interpretation of the statute and more consistent with the purpose of the advanced degree exemption.

The statute is ambiguous as to the precise manner by which beneficiaries with a master's or higher degree from a U.S. institution of higher education must be counted toward the numerical allocations. The statute states that the 65,000 numerical limitation does not apply until 20,000 qualifying beneficiaries are exempted, but is otherwise silent as to whether they must be exempted prior to, concurrently with, or subsequent to the 65,000 numerical limitation being counted and/or reached, or some combination thereof. This ambiguity was recognized by DHS when it initially determined how the exemption should be administered.[5] According to INA sec. 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C), ''The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 1101(a)(15)(H)(i)(b) of this title who . . . has earned a master's or higher degree from a United States institution of higher education (as defined in section 1001(a) of Title 20) until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.'' The numerical limitation of paragraph (1)(A) provides the total number of aliens who may be issued an H–1B visa or otherwise provided H–1B status. The numerical limitation, once it has been reached, means that no additional aliens, beyond the 65,000 limit, may be issued an initial H–1B visa or otherwise provided H–1B status unless they are exempt from the numerical limitation. A limited basis for exemption from the numerical limitation, for petitioners who are otherwise subject to the cap, is provided in INA sec. 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C), for beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education, until the number of such aliens exempted exceeds 20,000. This final rule, therefore, implements a process for counting petitions towards the numerical allocations in a manner that reasonably interprets the statute. DHS believes this approach is most consistent with the overall statutory framework as it counts all petitions filed by cap-subject petitioners until the numerical limitation is reached, and once that numerical limitation is reached, and otherwise precludes additional petitions, allows for an additional 20,000 petitions consistent with INA sec. 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C).

DHS also disagrees with the assertion that the selection order as proposed in the NPRM and as set forth in this final rule fails to account for variations in filing levels. DHS notes that the H–1B numerical limitation has been met before the end of the applicable fiscal year in each year since 1997.[6] USCIS has also received a sufficient number of petitions to reach the numerically limited exemption under INA sec. 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C) in each year from FY 2008 through FY 2019. While DHS recognizes that it is theoretically possible that a high rate of selection of submissions eligible for the advance degree exemption under the H–1B regular cap could result in an insufficient number of remaining submissions to meet the projected number needed to reach the advance degree exemption at the end of the annual initial registration period, the result is that USCIS would continue to allow for submissions through the end of the applicable fiscal year or until such time as USCIS has received enough registrations or petitions, as applicable, to meet the projected number need to reach the numerically limited cap exemption. DHS believes that historical filing rates indicate that such an occurrence (*i.e.* failing to receive enough registrations or petitions to meet the advanced degree exemption) is unlikely to happen at the current numerical allocation amounts. Rather, historical filing rates indicate that USCIS will continue to receive an excess number of H–1B filings to meet the numerical allocations. Further, reversing the selection order, such that all submissions are counted toward the projected number needed to reach the numerical limitation first, and then counting the remaining submissions, if eligible, towards the numerically limited cap exemption, ensures that the chance for selection under the regular cap for beneficiaries with a master's or higher degree from a U.S. institution of higher education is not reduced by the order of selection, as discussed in section IV.A.4.b. of this rule. DHS believes that administering the numerically limited cap exemption in a way that does not reduce the odds of selection for beneficiaries with a U.S. advanced degree under the regular cap is most appropriate and maximizes the overall odds of selection for such beneficiaries under the numerical allocations. Doing so also outweighs the potential that H–1B demand might

[5] See 70 FR 23,775 (2005)(''Congress did not specify any procedures for implementation or dictate the manner in which USCIS should allocate H–1B numbers made available pursuant to the new exemption.'').

[6] See *Walker Macy* v. *USCIS,* 243 F.Supp.3d 1156, 1163 (D. Or. 2017).

decrease so significantly from that experienced over the course of the last decade to a level where both numerical allocations are not met by the end of the applicable fiscal year.

DHS also disagrees that the statute requires that initial H–1B visas be allocated to petitions in the order received. The statute states that aliens subject to the H–1B cap shall be issued visas or otherwise provided status in the order in which petitions are filed. This statutory provision, and more specifically the term ''filed'' as used in INA 214(g)(3), 8 U.S.C. 1184(g)(3), is ambiguous.[7] Further, a literal application of this statutory language would lead to an absurd result. The Department of State (''DOS'') does not issue H–1B visas, and USCIS does not otherwise provide H–1B status, based on the order in which petitions are filed. Such a literal application would necessarily mean that processing delays pertaining to a petition earlier in the petition filing order would preclude issuance of a visa or provision of status to all other H–1B petitions later in the petition filing order. The longstanding approach to implementing the numerical limitation has been to project the number of petitions needed to reach the numerical limitation. Under this final rule, USCIS will continue to count submissions towards the projected number needed to generate a sufficient number of petition approvals to reach the numerical limitation but without exceeding the numerical limitation. DHS is not changing the approach to administering the numerical allocations as it relates to the use of projections. As such, under this final rule, unless the requirement is suspended, petitioners will be required to register and USCIS will select a sufficient number of registrations projected as needed to reach the numerical allocations. Only those petitioners with selected registrations will be eligible to file. Once filed, petitions will generally be processed in the order in which they are filed.

Comment: A commenter challenged the proposed changes in the cap allocation selection order as contrary to the Congressional intent for the H–1B visa classification. The commenter, relying on general legislative history for the H–1B program, noted that Congress did not intend that H–1B visas be given on a ''preferential basis to the most skilled and highest-paid petition beneficiaries,'' and that ''Congress has never limited use of H–1B visas to the best and brightest.'' The commenter indicated that DHS should ignore E.O. 13788 to the ''extent it mandates preference for the 'best and the brightest' among H–1B applicants'' and said that the ''President lacks the authority, through his executive agencies, to implement a change in law that is contrary to legislative intent.''

Response: DHS disagrees with the commenter's views that Congressional intent and legislative history preclude the changes DHS is making to the cap allocation selection order. While DHS agrees that Congress has not limited the H–1B classification to the ''best and brightest'' foreign nationals, nothing in the statute or legislative history precludes DHS from administering the cap allocation in a way that increases the odds of selection for beneficiaries with a master's or higher degree from a U.S. institution of higher education. As discussed elsewhere in this final rule, DHS is reversing the cap selection order to prioritize beneficiaries with a master's or higher degree from a U.S. institution of higher education in accordance with congressional intent, as the numerically limited exemption from the cap for these beneficiaries was created by Congress and appears in the INA. The reversal of the selection order is permissible based on the general authority provided to DHS under sections 103(a), 214(a) and (c) of the INA, 8 U.S.C. 1103, 1184(a) and (c), and section 112 of the HSA, 6 U.S.C. 112. DHS believes that reversing the cap selection order is consistent with E.O. 13788, which instructs DHS to ''suggest reforms to help ensure that H–1B visas are awarded to the most-skilled or highest-paid petition beneficiaries.'' The reversal of the selection order will likely have the effect of increasing the total percentage of master's degree holders in the H–1B population. In the aggregate, master's degree holders will tend to be more skilled and earn higher wages. Contrary to the commenter's assertion, this final rule does not limit eligibility for the H–1B classification to the ''best and the brightest.''

Comment: Some commenters said the proposed selection method would violate the requirement in 8 U.S.C. 1184(g) to process H–1B petitions in the order they are received. A professional association commented that when describing its authority for the proposed rule USCIS had failed to reference 8 U.S.C. 1184(g)(3), which states that cap-subject H–1B nonimmigrants ''shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed . . . '' The commenter concluded that the proposed H–1B registration system, which would mandate selection of ''registrations'' over ''petitions,'' is arguably unlawful. An individual commenter argued the use of a lottery selection process violates the Immigration and Nationality Act (INA) at 8 U.S.C. 1184(g)(3), which states that aliens who are subject to the numerical limitations shall be issued visas ''in the order in which petitions are filed.'' Moreover, the commenter stated that the numerical limit refers to the number of visas and status, not the number of petitions. An individual commenter similarly stated that the proposed system would violate this provision because employers would not be able file a petition unless they have registered and been selected through the registration process. A law institute commented that the use of the new selection process in years when there is no lottery appears to be in excess of DHS' authority and that DHS should either provide a sufficient legal justification for changing how visas are counted in years where there is no lottery or not use this process in such years.

Response: DHS disagrees with the commenter's assertions. The use of a random selection process has been found to not violate INA 214(g)(3), 8 U.S.C. 1184(g)(3). See *Walker Macy* v. *USCIS,* 243 F.Supp.3d 1156, 1163 (D. Or. 2017). Further, DHS believes that a similar approach to selection of registrations, whereby USCIS will randomly select registrations submitted electronically over a designated period of time to ensure the fair and orderly administration of the numerical allocations, is defensible under the general authority provided to DHS in INA 214(a), 8 U.S.C. 1184(a).

DHS also disagrees with the commenter's assertion that use of the new selection process in years of low demand is in excess of DHS' authority. As stated, DHS is relying on its general authority to implement the registration process as an antecedent procedural requirement that must be met before a petition is deemed to be properly filed. *See* INA 103(a), 214(a) and (c)(1), 8 U.S.C. 1103(a), 1184(a) and (c)(1). In years where demand is low, and an insufficient number of registrations have been received during the annual initial registration period to meet the number projected as needed to reach the regular H–1B cap, USCIS would select all of the registrations properly submitted during the initial registration period and notify all of the registrants that they may proceed with the filing of the H–1B cap petition. Once H–1B petitions have been properly filed, USCIS would generally process the petitions in the order that they have been filed. Registrations submitted after the initial registration

[7] See *Walker Macy* v. *USCIS,* 243 F.Supp.3d 1156, 1163 (D. Or. 2017).

period would continue to be selected on a rolling basis until such time as a sufficient number of registrations have been received. To ensure fairness, USCIS may randomly select from among the registrations received on the final registration date a sufficient number to reach the projected number. Contrary to the commenter's assertion, DHS is not changing the way visas are counted, but is merely using its general authority to create a more efficient process for administering the H–1B numerical allocations but otherwise continuing the historical use of projections to estimate the number of petition approvals that will likely be needed to reach, but not exceed, the H–1B numerical limitations. As stated in response to similar comments, a literal application of the statutory language in INA 214(g)(3), 8 U.S.C. 1184(g)(3), as the commenter suggests, would lead to an absurd result. DOS does not issue H–1B visas, and USCIS does not otherwise provide H–1B status, based on the order in which petitions are filed. Such a literal application would necessarily mean that processing delays pertaining to a petition earlier in the petition filing order would preclude issuance of a visa or provision of status to all other H–1B petitions later in the petition filing order.

Comment: An individual commenter argued that the use of a lottery selection process is not inconsistent with 8 U.S.C. 1184(g)(5), and that arguments to the contrary are incorrect.

Response: DHS agrees with the commenter's assertions that the use of a random selection process is not inconsistent with the existing statute and is a reasonable manner in which to administer the numerical limitations as it ensures that the allocations can be administered in a fair and efficient manner given the excess demand experienced each year for H–1B visas.

C. General Support for the NPRM

Comment: Some commenters expressed general support for the regulation. A few of these commenters stated that the rule should be implemented in time for the upcoming H–1B cap filing season. Other commenters offered additional non-substantive rationale for their support of the rule including: It would help track visas and prevent overstay issues; it would eliminate fraudulent H–1B filings and allow for the best candidates to obtain visas; it would cause an increase in U.S. wages; it would stop visa abuse and flooding of applications by certain companies; it would prioritize students studying in the United States and increase their chances to stay and work in the U.S.; and it would streamline the H–1B cap-petition process.

Response: DHS agrees with the commenters that this rule will streamline the H–1B cap selection process and will increase the likelihood of retaining beneficiaries in the United States who have earned a master's or higher degree from a U.S. institution of higher education. An increase in the overall percentage of H–1B aliens with a master's or higher degree from a U.S. institution of higher education could increase wages assuming that beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities or foreign advanced degrees are paid less than and replaced by beneficiaries with master's or higher degrees from U.S. institutions of higher education. DHS, however, will be suspending the registration requirement for the FY 2020 H–1B cap in order to further test the system. As such, the efficiency gains DHS anticipates will result from the streamlined cap selection process will not be realized until the registration requirement applies and registration prior to the filing of an H–1B cap-petition is required. DHS anticipates that this will occur starting with the FY 2021 H–1B cap.

DHS disagrees with the commenters' assertions that this rule will help to track visas, prevent H–1B nonimmigrants from staying beyond their authorized period of stay, or eliminate fraudulent H–1B petitions. This final rule simply provides for a registration requirement for H–1B cap-petitioners and reverses the order in which USCIS counts submissions toward the annual H–1B numerical allocations. Additional changes to strengthen the H–1B program and prevent fraud and abuse are outside the scope of this final rule.

D. General Opposition to the NPRM

Comment: A few commenters expressed general opposition to the regulation and criticized the H–1B program, arguing it prioritizes low-cost foreign workers over American workers. Some commenters suggested suspending the H–1B program, and a few commenters stated the rule is not merit-based. Some commenters also argued the rule does not do enough to prevent outsourcing, and fraud issues. Another commenter remarked that the rule needed input from lawyers and affected U.S. employers before implementation.

Response: DHS believes that this final rule is merit-based in that it will likely increase the number of beneficiaries with a master's or higher degree from a U.S. institution of higher education to be selected for further processing under the H–1B allocations. DHS disagrees that this rule prioritizes foreign workers. Rather, this final rule simply creates a registration process to streamline the existing H–1B cap selection process, and reverses the order in which submissions are counted toward the H–1B numerical allocations, but does not change the overall number of foreign workers that may be hired under existing statutory authority. Moreover, DHS does not have the statutory authority to suspend the H–1B program. Additional changes to strengthen the H–1B program and prevent fraud and abuse are outside the scope of this final rule but will indeed be pursued in a separate notice of proposed rulemaking. DHS disagrees with the commenter's assertion that implementation should not occur until input has been received from lawyers and affected U.S. employers. Among the commenters, DHS was able to identify numerous lawyers and affected U.S. companies, as well as trade associations, who submitted comments on the proposed rule and DHS has carefully considered their input in this rulemaking. DHS, however, will issue a notice in the **Federal Register** prior to implementation of the registration requirement to provide advance notice to affected stakeholders of the implementation of the registration requirement. This notice, however, would just pertain to the initial implementation of the registration requirement. Once implemented, further details will be provided on the USCIS website consistent with this final rule.

E. H–1B Registration Requirement

1. Support for Registration Program

Comment: Several commenters expressed support for the registration requirement. A few commenters stated the electronic registration process will be easier and more cost-effective. An attorney stated that the proposed system was an improvement as it would reduce waste and increase efficiency. Another commenter asserted that the registration process would relieve uncertainty for employers and employees, and mitigate burdens on USCIS.

Response: DHS agrees with the commenters. The registration process, once implemented, will provide petitioners and USCIS with a more efficient and cost-effective way to administer the H–1B cap selection process, and should reduce some of the uncertainty in the petitioning process.

2. Opposition to Registration Program

Comment: An individual commenter stated that the proposed rule would make it easier for employers to file H–1B petitions and hire foreign workers, which is not in line with the Administration's ''Hire American, Buy American[sic]'' agenda.

Response: This rule is consistent with the goals of Executive Order 13788, Buy American and Hire American, and therefore DHS disagrees with the commenter. This final rule does not alter the substantive requirements for the H–1B nonimmigrant classification, and thus does not make it ''easier'' to hire foreign workers. The registration process, once implemented, will be a more efficient process for administering the H–1B numerical allocations than the system that is currently in place. Increased governmental efficiency does not conflict with the Buy American and Hire American Executive Order. Further, the reversal of the cap selection order is expected to result in a greater number of beneficiaries with a master's or higher degree from a U.S. institution of higher education being selected and is therefore in line with the executive order's directive to ''help ensure that H–1B visas are awarded to the most-skilled or highest-paid petition beneficiaries.''

3. Announcement and Length of Registration Periods

Comment: An individual commenter who supported the rule said it is unclear whether the cut-off time for registration will be announced up-front (*e.g.,* few days earlier). A company stated that the proposed rule introduced uncertainties that must be clarified with specificity, and submitted a list of procedural uncertainties about the proposed registration system. An advocacy group stated that aspects of the new registration system would create timing issues, for which it requested that USCIS issue clarifications. The group asked for clarification regarding:

- The registration count and whether it would always be completed by the end of March and when notification to selected registrants would be provided.
- How frequently the agency will check registration numbers and petition filing numbers and on what dates each year.
- Whether the agency will notify the public as to the number of registrations and associated petitions that have been filed.
- How much advance notice will be provided concerning any reopening of registration.
- How much advance notice will be given concerning the availability of H–1B numbers allowing further selected registrants during a fiscal year, beyond the initial selection of registrations.

Response: USCIS will announce the start date of the initial registration period on the USCIS website for each fiscal year at least 30 days in advance of the opening of the registration period. In each fiscal year, the registration period will begin at least 14 calendar days before the first day of petition filing and will last at least 14 calendar days. USCIS will also separately announce the final registration date in any fiscal year on the USCIS website. If USCIS determines that it is necessary to keep the registration period open at the end of the initial registration period, the final registration date will be determined once USCIS has received the number of registrations projected as needed. USCIS, however, will not be able to identify the final registration date in advance as the date would be contingent on the number of registrations received. Similarly, if USCIS determines that it is necessary to re-open the registration period, it will announce the start of the re-opened registration period on its website before the start of the re-opened registration period. *See* 8 CFR 214.2(h)(8)(iii)(A)(*7*). USCIS, however, will not be able to identify the final registration date for the re-opened registration period as that date would also be contingent on the number of registrations received.

Comment: Several commenters, including a form letter campaign, stated that USCIS should not be able to announce changes to the program on its website. The commenters asserted this could disrupt the H–1B planning process for businesses, notably smaller companies who do not have the resources to make such changes quickly. Similarly, an attorney stated that the applicable statute and law do not permit USCIS to make announcements on its website substantially changing the way the lottery is run each year so that ''applications would need to be filed again''.

Response: DHS disagrees that making announcements consistent with established regulatory procedure that is being codified through notice and comment rulemaking constitutes making changes (substantive or procedural) to the program. In this rule DHS is codifying the procedure it will use to announce pertinent information regarding the H–1B cap process in the Code of Federal Regulations, and is simultaneously announcing and explaining these procedures in the **Federal Register** publication of this final rule. The regulations codified therein explicitly identify the USCIS website as the source of this type of information in the future. DHS believes that authorizing USCIS to post H–1B cap related announcements on the USCIS website is consistent with the way in which USCIS has historically communicated with the regulated public about the H–1B cap allocations and provides a timely and efficient method of communication of program-related information to the public as well as transparency. The public frequently turns to the USCIS website for information and routinely uses the USCIS website for general information on immigration benefits, rules, and processes; applicable statutes and regulations; downloadable immigration forms; specific case status information; and processing times at the various Service Centers and district offices. USCIS currently notifies the public when it will begin accepting petitions subject to the cap for a given fiscal year and when numerical limits have been reached through its website. USCIS has historically and also would currently use its website to inform the public of potential re-opening of the cap filing period. Maintaining this practice therefore would be consistent with settled expectations and USCIS' existing legal authority. If USCIS does in the future determine that it is necessary to suspend the registration process, USCIS will make the announcement on its website as soon as practicable, and will take into consideration the possibility that the opening of the petition filing season may need to be temporarily delayed to allow sufficient time for the preparation and orderly filing of H–1B cap-subject petitions.

Comment: A trade association noted that no advance notice requirement language is included in the proposed regulatory text. The commenter stated that the 30-day notice prior to the commencement of the initial registration period must be codified in the proposed 8 CFR 214.2(h)(iii)(8)(A)(*3*), reasoning that without the inclusion of this language, USCIS could announce the initial registration on the day the agency would begin receiving registrations.

Response: DHS thanks the commenter for noting the absence of the 30-day minimum timeframe and has made edits in this final rule to the regulatory text as proposed to ensure that the regulated public is provided with at least 30 days advance notice of the first date of the initial registration period. DHS disagrees, however, that 30-days advance notice should be required prior to re-opening the registration period consistent with this final rule. DHS believes that 30-days advance notice

prior to re-opening the registration period is unnecessary and could undermine USCIS's ability to select additional registrations and invite additional petitions in a timely manner, thereby frustrating the purpose of re-opening the registration period. Even though 30-days advance notice will not be provided when USCIS re-opens the registration period, USCIS will ensure that the announcement of the reopening of the registration period in any fiscal year is made as early as practicable to afford maximum advance notice to the regulated public.

Comment: Many commenters, including trade associations, a university, a law firm, and individuals expressed concern that the proposed duration of the registration period would be too short. A law firm requested that the registration period be open for at least 30 days, arguing that the proposed 14-day initial registration period is insufficient time for law firms to review a potentially large volume of cases. A form letter campaign suggested 60-day advance notice and a 30-day registration period. An individual commenter recommended a 45-day advance notice and a 30-day registration period. A trade association recommended a 30-day registration period beginning on a scheduled start date announced no later than January 15 each year.

Response: The annual initial registration period will last for a *minimum* period of 14 calendar days, but where practicable USCIS will provide more time. *See* 8 CFR 214.2(h)(8)(iii)(A)(*3*). DHS believes that 14 calendar days is a sufficient amount of time to complete the registration process. The registration does not require extensive information and will not take a lot of time for completion and submission. Additionally, USCIS will provide at least 30 days advance notice of the opening of the initial annual registration period for the upcoming fiscal year via the USCIS website (*www.uscis.gov*). USCIS will conduct stakeholder outreach prior to the initial implementation of the registration system to allow stakeholders the opportunity to familiarize themselves with the electronic registration process. DHS notes that the 30-day period of advance notice of the opening of the initial registration period is the minimum amount of time that USCIS must provide, but USCIS is not precluded from providing notice more than 30 days in advance if USCIS determines that additional notice is needed to adjust to circumstances at that time. DHS believes the minimum 30 days advance notice will give petitioners sufficient time to prepare registrations given that, once registration is required and implemented, there should be a settled expectation that registration will be required, unless suspended, and most employers or attorneys will have already begun to identify H–1B beneficiaries for the upcoming cap by the time that the announcement is made such that additional preparation to submit registrations should not be overly burdensome.

4. Required Registration Information

Comment: A professional services company, multiple business associations, multiple law firms, and an individual commenter said it would be helpful to have a Petitioner account so that petitioners do not have to enter their corporate information for every single beneficiary. A business association said that petitioners should be allowed to submit all of its beneficiaries via a bulk submission process, and that DHS use audits to detect patterns of abuse. An individual commenter requested that USCIS provide a tool for beneficiaries to view their status.

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. As the testing continues, USCIS is exploring a number of options for efficient operation, use, and maintenance of the system. USCIS will not require petitioners to enter their corporate information for every beneficiary.

Comment: A business association said that the required registration information specifically enumerated in the preamble is sufficient, and that the regulatory text should be revised to remove the 'catch-all' line referring to 'any additional basic information requested by the registration system' to promote certainty. A company also suggested that the reference to 'any additional basic information' would cause uncertainty, and requested that USCIS provide 90 days' notice of updates to required information prior to the registration period. An advocacy group said that USCIS should not be able to change registration prerequisites, and that USCIS should publish the form that will be used and allow public comment on its contents.

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. As the testing continues, USCIS is exploring a number of options for efficient operation and maintenance of the system. As indicated in our responses to the comments pertaining to the Paperwork Reduction Act and the information collections impacted by this rule, while USCIS is seeking OMB approval of the new H–1B Registration Tool information collection as currently proposed, if USCIS determines that collecting additional information is necessary for the effective operation of the registration process, USCIS will comply with the PRA and request OMB approval of any material modifications to that information collection. The H–1B Registration Tool information collection instrument for which DHS is currently seeking OMB approval will be posted to *www.reginfo.gov* when the final rule publishes and be available for review by the public.

Comment: A few commenters suggested that USCIS require the beneficiary's passport number or Social Security Number and check for duplicates to prevent multiple employers from registering to file an H–1B cap-petition for the same beneficiary. Another individual commenter said there is not enough information required to submit a registration, which could cause the system to be flooded by frivolous registrations. A form letter campaign suggested that the registration should require at least the job title, work site address, and salary offered and employers must attest that the position as described has been offered to the beneficiary being registered. An individual commenter said registration should require at least the job title and SOC code from the LCA, employer address, work site address, LCA Wage Level, and whether the employer is H–1B dependent. Similarly, another commenter suggested that employers should be required to submit a basic application similar to the I–129 application form and certify under penalty of perjury that it has a bona fide job offer to the employee.

A few unions stated that DHS should require employers to disclose any recent or ongoing labor violations or disputes, including EEOC complaints, wage or safety violations, unfair labor practices, or collective bargaining negotiations. A business association suggested that DHS require information related to country of residence and specific educational qualifications (*e.g.,* bachelor's, Master's, Ph.D., date conferred, name and location of institution).

Response: DHS agrees that sufficient information should be required to enable USCIS to identify the beneficiary of the registration, check for duplicate registrations submitted by the same prospective petitioner, and to match selected registrations with subsequently filed H–1B petitions, without overly burdening the employer or collecting unnecessary information. This final rule requires that each registration include, in addition to other basic information, the beneficiary's full name, date of birth, country of birth, country of citizenship, gender, and passport number. USCIS intends to check the system for duplicate registrations during the registration phase similarly to how USCIS currently checks for duplicate H–1B petition filings. At this time DHS does not believe that requesting additional information about the beneficiary or the petitioner is necessary to effectively administer the registration system. Some of the additional information proposed by commenters is information that USCIS would require and review to determine eligibility in the adjudication of the H–1B petition. Establishing eligibility is not a requirement for submitting a registration. USCIS believes the current required information is sufficient to identify the registrant and limit potential fraud and abuse of the registration system. If USCIS determines that collecting additional information is necessary for the effective operation of the registration process, USCIS will comply with the PRA and request OMB approval of any material modifications to that information collection. DHS is not amending the regulations to prohibit multiple employers from filing an H–1B cap-petition for the same beneficiary. DHS regulations, however, already preclude the filing of multiple H–1B cap-subject petitions by related entities for the same beneficiary, unless the related petitioners can establish a legitimate business need for filing multiple cap-petitions for the same beneficiary, and that regulation remains unchanged by this final rule. This final rule authorizes USCIS to collect sufficient information for each registration to mitigate the risk that the registration system will be flooded with frivolous registrations. For example, each registration will require completion of an attestation, and individuals or entities who falsely attest to the bona fides of the registration and submitted frivolous registrations may be referred to appropriate federal law enforcement agencies for investigation and further action as appropriate.

Comment: Some commenters provided input on addressing errors. A company, multiple business associations, and an advocacy group suggested that non-material errors might occur and should not affect a beneficiary's chances of being selected in the lottery, and that USCIS should allow petitioners to correct these errors for [registrations] that are selected when filing the H–1B petition. A law firm suggested that the only material errors that should result in the rejection of filing are errors in the employer's name and beneficiary's name. The commenter explained that information such as birth date could be accidently misfiled because of listing conventions in different countries and need not disqualify someone's ability to file. A professional services company said USCIS should make publicly available reasonable remedies to resolve errors made in good faith by petitioning employers.

Similarly, some commenters provided input on editing registrations. A couple of companies said business needs might change, and that employers should be able to edit registrations for errors or changes in business needs prior to the close of the registration period. A law firm requested that USCIS issue clarifications on how to edit registrations, and suggested that withdrawing and re-submitting a registration should not be counted as multiple filings. The firm also suggested that USCIS establish a warning system for when multiple filings are mistakenly submitted, and that the system allow petitioners to identify cap-subject or master's-cap eligible petitions from the outset. However, another attorney questioned whether employers would be stuck with cap designations if such a feature is included, and cautioned that the registration process would force employers and H–1B candidates to make early decisions that may change later on.

Response: USCIS is exploring a number of options for efficient operation, use, and maintenance of the system. USCIS is considering ways to allow petitioners to correct typographical errors, and may allow petitioners to contact USCIS where they believe such an error was made on a registration. USCIS will allow petitioners to edit a registration up until the petitioner submits the registration. A petitioner may delete a registration and resubmit it prior to the close of the registration period. USCIS will provide guidance on how to use the registration system and edit registrations prior to opening the registration system for the initial registration period.

Comment: A professional association and a law firm said the registration process should include an eligibility assessment for positions and candidates, so that employers who are not well-versed in immigration and H–1B requirements do not take up H–1B cap space. Similarly, an individual commenter stated that the information captured in the current system would not be enough to reduce the burden on USCIS by rejecting non-meritorious petitions.

Response: As noted elsewhere in this rule, submission of the registration is merely an antecedent procedural requirement to properly file the petition. It is not intended to replace the petition adjudication process or assess the eligibility of the beneficiary for the offered position. The purpose of the information provided at the time of registration is to allow USCIS to efficiently identify the prospective H–1B petitioner and the named beneficiary, eliminate duplicate registrations, to select sufficient registrations toward the H–1B cap and the advanced degree exemption, and to match selected registrations with subsequently filed H–1B petitions. As such, DHS is declining to adopt the suggestion of including an eligibility assessment as part of the registration process. DHS also declines to adopt the suggestions to collect additional information regarding the petitioner, beneficiary or proffered position that would go beyond these needs. The selection process is intended to impose little burden, as it is a random process that does not assess eligibility. DHS recognizes that submission of non-meritorious petitions, whether under the new registration process or under the current process, creates an additional administrative burden. This rule, however, is not designed to relieve the burden of adjudicating non-meritorious petitions. The registration process under this final rule is designed to relieve the burden of having to receive several hundred thousand H–1B cap petitions in order to administer the cap selection process.

In addition, USCIS may reopen the registration process if necessary to ensure sufficient number of registrations are selected toward the number projected as needed to reach the numerical allocations (as may be the window for filing petitions). Thus, ''cap space'' will not go unutilized because of the submission of non-meritorious registrations or petitions.

Comment: A law firm suggested that the regulation should be amended to allow lawyers to file registrations, as they are in the best position to advise

employers about the qualifications for H–1B status. The commenter also suggested that USCIS should develop adequate protections to ensure that only authorized company representatives are able to file petitions, warning that without such protections, someone could use an employer's easily-discoverable employer identification number to file hundreds of inappropriate submissions or self-register for H–1B slots.

Response: As discussed elsewhere in this preamble, the regulation will allow attorneys to submit registrations on behalf of petitioning clients, upon completion of a Form G–28, Notice of Entry of Appearance as Attorney or Accredited Representative, for each petitioning client. USCIS is exploring a number of options for efficient operation, use, and maintenance of the system, as well as additional fraud and abuse prevention measures.

Comment: A law firm requested that USCIS ask for beneficiaries' Student and Exchange Visitor Information System (SEVIS) number during registration to ensure that information is updated in SEVIS if an individual is selected in the lottery.

Response: The registration system is only a preliminary step towards filing of an H–1B cap petition. As noted previously in this preamble, USCIS is only collecting information that is necessary to identify the beneficiary and petitioner for the purpose of effectively conducting the cap allocation selection process and confirming that H–1B cap-subject petitions are based on a selected registration when registration is required. Because a SEVIS number is not necessary for the cap selection process, USCIS declines to collect it at this time.

5. Timeline for the Implementation of the H–1B Registration Requirement

Comment: A number of commenters requested that DHS delay the implementation of the registration process past the FY 2020 cap season, until FY 2021. Most noted that adjusting to a new system so close to the H–1B cap filing season would be difficult and noted the timeframes necessary to prepare petitions and the time, effort, and resources already spent in preparing for the FY 2020 cap season. One commenter also noted that cost-savings would not be achieved for the FY 2020 cap season since petitioners have already begun preparing H–1B cap petitions for the upcoming filing season. Commenters also requested that DHS announce as soon as possible whether it intends to implement or suspend the registration process for the FY 2020 cap season to remove uncertainty for the regulated public and give petitions an adequate opportunity to prepare H–1B petitions.

Response: Based on comments received and ongoing review of the registration system, USCIS will be suspending the registration requirement until such time that the system has been fully tested and modified to address concerns raised by commenters. DHS will publish a notice in the **Federal Register** before the registration requirement is implemented. USCIS will also conduct outreach and training on the new registration system to the regulated public which will be offered in advance of the cap season during which the registration process will be implemented for the first time.

Comment: A business association stated that there is inadequate time for USCIS to comply with the requirements of the Administrative Procedure Act and/or evaluate all comments received on the proposed rule in time to make changes that would take effect before the start of the 2020 H–1B cap season. Additionally, several commenters asserted that adopting a new registration process for FY 2020 cap-subject H–1B petitions would insert unnecessary uncertainty, as there simply is not enough time to finalize the registration requirement and system for the FY 2020 H–1B cap, and, if DHS wanted such a system implemented for the FY 2020 cap, it should have published the proposed rule much sooner than it did. A commenter also noted that there is insufficient time for USCIS to substitute a two-step registration system for the current one-step procedure.

Response: DHS is publishing this final rule having carefully considered public comments received during the comment period. As a result of considering concerns raised by commenters regarding the short timeframe for the implementation of the registration process in addition to other concerns regarding disruption to petitioners that could be caused by a late announcement of the requirement to register for an upcoming cap season, USCIS will be suspending the registration process until such time that the system has been fully tested to be reliably operable, and, as necessary, modified to address concerns raised by commenters. DHS will publish a notice in the **Federal Register** in advance of the first registration period to announce the implementation of the registration process. Once the registration process has been implemented, if USCIS determines that it needs to suspend the registration process in the future, USCIS will make an announcement of such suspension as soon as it becomes aware of circumstances necessitating such suspension, and will announce the first date on which petitions may be filed taking into consideration the amount of time needed to facilitate the orderly filing of H–1B cap-subject petitions without prior registration. As indicated elsewhere in this final rule, DHS anticipates that USCIS will use this option rarely and reserve it for circumstances where the registration system is inoperable.

Comment: A business association stated that there is inadequate time for a sufficient ''debugging'' effort that typically takes months or years. Some commenters urged for testing of the registration system prior to implementation or suggested that DHS should postpone implementation until system testing and stakeholder engagement has been conducted. The U.S. Small Business Administration (SBA), Office of Advocacy said USCIS should test the electronic registration system before implementation, to prevent errors and delays in this program. Another commenter said any proposed system should be tested and announced at least 6 to 12 months before implementation. Two business associations said USCIS would be better served to define, test, and implement the proposed registration system over the next 15 months to be operational in March of calendar year 2020. Other commenters, including an advocacy group, a professional association, and business commenters, expressed the following concerns when requesting additional testing of the system prior to implementation:

- Testing is needed to ensure that the system is not flooded with registrations.
- Past automation efforts at USCIS as part of its long-term Transformation Program over the course of the past 13 years have been riddled with glitches, processing inefficiencies, and poor stakeholder involvement, and such negative experiences should dictate to DHS that the proposed H–1B electronic registration process should be thoughtfully and thoroughly tested prior to implementation.
- The agency's track record when it comes to rolling out technology has been disappointing, and USCIS electronic filing initiatives have failed to live up to their promise and were delivered with insufficient testing and feedback.
- Employers and law firms should be active participants in the testing and vetting process, as they will be the front-end users of the system and are best positioned to identify issues that might not be clear on the back end.

Furthermore, to ensure efficiency, employers and law firms should be given the opportunity to see the electronic form and registration portal, and familiarize themselves with them, well in advance of any registration period.

- USCIS needs to give itself adequate time to test and troubleshoot this electronic registration system before it mandates its use and also needs to be transparent with the regulated community about the system and its test results.
- The USCIS Ombudsman 2018 Annual Report warns against implementing untested, deadline-driven electronic programs.
- There is insufficient time to test the online system—based on final system requirements—before the FY20 registration process will begin.

Response: The final rule includes the possibility that the registration requirement could be suspended if USCIS experienced technical challenges with the H–1B registration process and/or the new electronic system that would be used to submit H–1B registrations, or where the system otherwise is inoperable for any reason, including if it was not fully operational by April 1, 2019. Based on comments received and ongoing review of the registration system, USCIS will be suspending the registration requirement until such time that the system has been fully tested and modified to address concerns raised by commenters. DHS will publish a **Federal Register** Notice in advance of implementing the registration system to ensure the public has sufficient preparation time to become familiar with and utilize the electronic registration system. USCIS will also conduct outreach and training on the new registration system to the regulated public which will be offered in advance of the cap season during which the registration process will be implemented for the first time.

Comment: A business association made the following recommendations relating to timeline for implementation of the registration system: (1) Prioritize the Electronic Immigration System (ELIS) and postpone consideration of a stand-alone, online lottery H–1B registration system until that system can be implemented in closer coordination with ELIS, and (2) allow for adequate time to fully vet, test, and troubleshoot the online registration system and delay finalization of the online registration proposal until the agency is confident that there will not be a need to revert to the current system. Similarly, a professional association urged USCIS to place this proposed rule on indefinite hold, at least until electronic filing is fully implemented and the administrative costs and burdens can be reassessed under the new system. A business association stated that USCIS should work with stakeholders to develop a workable electronic filing system, and then determine if an electronic registration is necessary. A professional association supported the goal of establishing an electronic filing system for the H–1B cap selection process, and urged that a registration portal and electronic filing process be developed in tandem.

Response: USCIS has decided to suspend the registration requirement until such time that the registration system is fully tested to be reliably operable, and, as necessary, modified to address commenters concerns. DHS will publish a notice in the **Federal Register** announcing the implementation of the registration process in advance of the first cap season during which the registration process will be implemented. However, submission of the registration, when registration is required, is merely an antecedent procedural requirement to properly file the petition. It is not intended to replace the adjudication process. USCIS is committed to fully transitioning to a digital environment for processing of immigration benefit requests. As such transition is made, USCIS expects further efficiencies to be realized in the adjudication process. However, because the registration process has distinct benefits for the regulated public as well as USCIS, and because it is on a different development timeline from USCIS efforts to transition filing of all immigration benefit requests to an electronic environment, USCIS plans to implement the registration process independently from electronic filing. As noted earlier in the discussion of public comments, USCIS will be delaying the implementation of the registration process until it is confident that the registration system is reliably operable and with sufficient advanced notice to the regulated public published in the **Federal Register**.

Comment: An attorney stated that if USCIS decides to suspend the registration process in March, there is no feasible way companies and law firms can pull together a considerable amount of H–1B petitions for submission during the first five business days of April. While in general agreement with the rule, the commenter disagreed with the ability of USCIS to suspend the registration requirement. Multiple commenters, including companies, individuals, and a form letter campaign stated that allowing USCIS to suspend the registration process for a given fiscal year would create uncertainty every fiscal year since, from one year to the next, an employer and prospective H–1B beneficiaries could never be sure whether they will need to register or file petitions. The commenters concluded that allowing suspension of the registration process in any given fiscal year will make it even more difficult for businesses to hire necessary talent to meet their business needs and thus remain competitive in the global marketplace. Similarly, another commenter said the ability of USCIS to ''suspend'' the implementation of the registration process makes the entire process unreliable and unpredictable, which creates chaos within the H–1B Cap process.

Response: DHS appreciates the commenter's concern about the challenges that employers and law firms may face if the registration requirement is not suspended far enough in advance of when the H–1B cap petition process would begin. To provide sufficient advance notice for the upcoming H–1B cap season, DHS is confirming in this final rule that USCIS will be suspending the registration requirement for the FY 2020 cap season to allow potential H–1B petitioners sufficient time to prepare complete petitions for the FY 2020 H–1B cap. DHS, however, believes that it is important to provide USCIS with the flexibility to suspend the registration requirement at any time if the system becomes inoperable for any reason. DHS believes that this flexibility is needed to ensure that employers are not precluded from proceeding with the petition process in the event that circumstances render the system inoperable.

Comment: An individual commenter asked whether potential H–1B beneficiaries will continue to have until the filing date to get their degree or if USCIS will instead require that an H–1B beneficiary must be eligible for the H–1B benefit upon registration submission. A company requested that USCIS clarify the date by which a beneficiary must complete degree requirements, by the registration date or complete petition filing date. A law firm also asked if beneficiaries would have to be qualified for a position at the time they are registered.

Response: This final rule does not alter the general requirement for establishing eligibility at the time the petition is filed, but merely sets forth an antecedent procedural step that must be followed in order to establish eligibility to file an H–1B cap petition, thereby providing for a more efficient cap selection process for petitioners and

USCIS. Eligibility for H–1B classification does not need to be demonstrated at the time a registration is submitted.

Comment: A professional services company suggested that trainings, demonstrations, sample forms and a list of required information should be made available to petitioners before the registration period. A law firm and an individual attorney also requested that training tools, demonstrations, samples or special instructions be made available to H–1B petitioners to ensure that they can properly complete the new registration requirement.

Response: As noted, USCIS will be suspending the registration requirement until the registration system is fully tested to ensure that it is reliably operable and, if necessary, to allow time for any system modifications as a result of commenter concerns raised in response to the proposed rule. DHS will publish a notice in the **Federal Register** announcing the initial implementation of the registration process in advance of the cap season in which USCIS will first implement the registration process. As the testing continues, USCIS is exploring a number of options for efficient operation and maintenance of the system. USCIS will also engage in stakeholder outreach and provide training to the regulated public on the new registration system in advance of the initial implementation of the registration process.

Comment: One individual commenter recommended conducting two rounds of registrations, with limits in the first registration on the number of registrations that an employer can submit and on the number of registrations that can be selected on behalf of a single beneficiary.

Response: DHS thanks the commenter for these suggestions. While the registration process already contemplates the selection of additional registrations if DHS does not select a sufficient number to meet the cap projections, as well as the reopening of the registration process to ensure sufficient number of registrations are selected toward the cap, DHS does not have the authority to place quotas or limits on employers or beneficiaries, beyond what it authorized by Congress in the INA.

Comment: An attorney expressed concerns about an electronic filing system, and asserted that there are no forms currently available that can be readily submitted electronically by an attorney on behalf of their client, which can interfere with attorney-client relationships. Another attorney stated that IT complications with government-run websites forced multiple colleagues out of practice in the past year.

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. As the testing continues, USCIS is exploring a number of options for efficient operation and maintenance of the system. USCIS is confident that this suspension will address concerns related to the electronic filing system.

6. Fraud and Abuse Prevention for Registration Requirement

a. Suggestions Related to Fee Collection

Comment: Some commenters said DHS should charge a non-refundable fee for the electronic registration or collect the petition processing fee during registration to deter potential abuse of the registration process. Additionally, some commenters said DHS should require all of the H–1B petition filing fees at the time of registration, which could be refunded if not selected. Similarly, a couple of commenters suggested that the fee payment be required as a condition of registration, but only deducted once a registrant is selected (*i.e.,* non-selected registrants would not have payment required).

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. The suspension of the registration process will be formally announced on the USCIS website after this final rule goes into effect. As the testing continues, USCIS is exploring a number of options for efficient operation and maintenance of the system, as well as additional fraud and abuse prevention measures. Under this final rule, DHS will not be charging a fee for registration at this time. DHS recognizes that some employers may be more willing to submit a registration, once the registration process is implemented, than they are willing to submit a complete H–1B cap-petition with filing fees, as well as the potential for employers to submit non-meritorious registrations. DHS has taken steps, however, to prevent speculative or frivolous registrations. As noted elsewhere in this rule, DHS will require registrants to attest that they intend to file an H–1B petition for the beneficiary in the position for which the registration is filed. This attestation is intended to ensure that each registration is connected with a bona fide job offer and, if selected, will result in the filing of an H–1B petition. DHS may consider charging a fee in the future to recover the costs of processing registrations as well as recover costs of building, operating, and maintaining the registration system. DHS would propose such a fee by publishing a notice of proposed rulemaking in the **Federal Register**. DHS cannot adopt the commenter's suggestion to require petitioners to include petition filing fees at the time of registration due to current system limitations and requirements. In addition, requiring USCIS to refund or hold funds would not be operationally efficient and would require USCIS to incur additional expenses, as USCIS incurs a cost any time it is required to refund a fee to an applicant or petitioner.

Comment: Some commenters said any registrant who is selected and chooses not to submit an H–1B petition for its selected registration(s) should be required to pay H–1B petition filing fees. One of these commenters said this situation is no different from one in which a petitioner files the H–1B petition, with all fees and documents, and later requests for a withdrawal of the petition before adjudication, in which case USCIS does not refund the fees. This commenter suggested that the selected registrants pay all the required filing fees, such as the $460 base filing fee, the $1,500/$750 ACWIA fee, as applicable, and the $4,000 Public Law 114–113 fee, as applicable, even if they do not file a petition. Another commenter said selected registrants who do not submit an H–1B petition should be fined 2–3 times the amount of the filing fee. A business association stated that, to the extent a penalty is imposed, there should be an avenue for appeal. However, another commenter said petitioners should be eligible for a refund of all fees if they file but subsequently withdraw the petition, but they should be required to submit reasons and detailed information in the withdrawal.

Response: DHS declines to adopt the commenters' suggestions to collect petition filing fees at time of registration. DHS does not view registration as the same as filing a petition. Submission of the registration is merely an antecedent procedural requirement to properly file the petition. DHS also declines to include a fine in the rule, to the extent it has such authority, for petitioners who do not file subsequent petitions given that there may be legitimate reasons why a petition is not filed following

registration (*e.g.* the beneficiary may have decided to pursue other employment opportunities or the business environment has changed). However, DHS notes that there may be monetary fines/criminal penalties under 18 U.S.C. 1001(a)(3) which apply generally to statements/representations made to the Federal Government, and registrants that engage in a pattern and practice of submitting registrations for which they do not file a petition following selection may be referred for investigation of potential abuse of the system. However, as discussed elsewhere in this rule, DHS may consider charging a separate registration fee in the future.

Comment: One commenter expressed concern that DHS would return the petition filing fees on un-selected H–1B petitions. The commenter asserted that, in order to cut down on temptation to game the system with redundant registrations for the same job, the Fraud Prevention Fee and the appropriate ACWIA fees should be forfeited for any registration, petition, or application.

Response: DHS will not be collecting fees at the time of registration, but rather when the petition is filed, consistent with current practice. Although DHS currently will not be requiring any fees at the time of registration, DHS is looking at other ways to prevent potential fraud and abuse of the registration system and process. DHS may consider charging a fee in the future, and will notify stakeholders by publishing a notice in the **Federal Register** if and when a fee is proposed.

b. Suggestions To Deter Fraud Related to Employers/Petitioners

Comment: One commenter stated that, since the current I–129 form does not require any unique identification of a proposed alien beneficiary unless the alien is in the United States already, employers may enter fictitious H–1B petitions into the lottery, and then create fraudulent documents to transform an actual alien into the ''person'' named in the lottery. The commenter supported the inclusion of passport number as required information, but said DHS should go even further and require the employer to submit a photograph of the proposed beneficiary when submitting a registration.

Response: As stated elsewhere in this rule, DHS does not believe that requesting additional information about the beneficiary or the petitioner is necessary to effectively administer the registration system. USCIS believes the current required information is sufficient to identify the registrant and limit potential fraud and abuse of the registration system. If USCIS determines that collecting additional information is necessary for the effective operation of the registration process, USCIS will comply with the PRA and request OMB approval of any material modifications to that information collection. This final rule authorizes USCIS to collect sufficient information for each registration to mitigate the risk of fraud and abuse. Each registration requires completion of an attestation, and individuals or entities who falsely attest to the bona fides of the registration and submit frivolous registrations may be referred to appropriate federal law enforcement agencies for investigation and further action as appropriate. DHS further notes that selected registrants who subsequently file an H–1B petition will be required to make additional attestations, under penalty of perjury, when signing and submitting the Form I–129 petition. The existing attestation on Form I–129 requires the petitioner to attest that the petition and documents submitted in support of the petition are true and correct. If a petitioner submits fraudulent documents to establish the identity of the beneficiary, the petitioner will be investigated and referred for further action, as appropriate.

Comment: Some commenters expressed general concern that the rule cannot prevent fraudulent employers and ''body shops'' from potentially abusing the registration system. Several commenters said USCIS should limit the allowed registrations per employer to deter against USCIS being flooded with registrations when there are not an equivalent number of jobs, particularly by staffing companies or large employers in industries where labor is fungible. One commenter expressed similar concerns about employers registering for lots of prospective workers, stating that once their registrations are selected, these employers with a registration in hand can carry out their original speculation much more effectively. Another commenter asked how USCIS would protect against the unauthorized practice of law by ''notorio's,'' [sic] and how USCIS could know if the registration system would crash causing all submissions to be lost.

Response: This final rule requires registrants to attest that they intend to file an H–1B petition for the beneficiary in the position for which the registration is filed. This attestation is intended to ensure that each registration is connected with a bona fide job offer and, if selected, will result in the filing of an H–1B petition. If USCIS finds that petitioners are registering numerous beneficiaries but are not filing petitions for selected beneficiaries at a rate indicative of a pattern and practice of abuse of the registration system, USCIS will investigate those practices and hold petitioners accountable for not complying with the attestations, consistent with its existing authority to prevent and deter fraud and abuse. *See DHS Delegation 0150.1(II)(I).* For example, USCIS may refer the matter to a law enforcement agency for further review and enforcement action. *See Id.* Finally, USCIS has robust anti-fraud measures in place and will act appropriately should it notice abuse or other issues, such as the unauthorized practice of law.

Comment: Multiple commenters, some of whom supported the goal of moving to an electronic registration process, expressed general concern that the reduced paperwork burden and absence of fees would create a low bar for entry to the registration system, which could lead to a flood of (potentially non-meritorious) H–1B petitions, thus increasing burden and defeating the purpose of selecting skilled advanced degree holders selected. A company asserted that the registration process must necessarily impose a low burden in order to achieve the cost benefits and efficiencies the rule seeks to achieve, but the ease of that process is in direct tension with the goal of ensuring that only legitimate registrations are made. Several commenters, including companies, a business association, and SBA Office of Advocacy, said small businesses are particularly concerned about the potential that other registrants, particularly large companies that are H–1B dependent or rely heavily upon the H–1B program, could flood the registration system to the detriment of small businesses. A professional association stated that a very small number of companies that can employ economies of scale and utilize systems to file a large number of registrations to generate a higher yield, could effectively force small employers out of the H–1B program altogether.

Response: To address potential issues of ''flooding the system'' with non-meritorious registrations, the final rule prohibits a petitioner from submitting more than one registration for the same beneficiary during the same fiscal year, prohibits the substitution of beneficiaries, and requires each registrant to make an attestation in the system indicating their intent to file an H–1B petition for the beneficiary in the position for which the registration is submitted. This attestation is intended to ensure that each registration is

connected with a bona fide job offer and, to the extent selected, will result in the filing of an H–1B petition. Once the registration system is implemented, it is possible that DHS may receive more registrations than it would have received petitions for the cap filing season; however, this is not a certainty and DHS does not anticipate a significant increase in overall petitions due to the registration requirement. DHS anticipates that the registration requirement will result in a more streamlined process of receiving and processing H–1B cap-subject petitions.

Further, the registration requirement provides for an initial registration period that will last for at least 14 days, which is intended to, among other things, ensure that the process is fair and orderly and doesn't unfairly disadvantage small businesses who might not be as well-positioned as a large company or experienced H–1B petitioner to submit registrations immediately upon the opening of the registration period.

Comment: A law firm said the current proposal does not indicate what precisely will happen in the case of duplicate registrations (*i.e.,* petitioners that submit more than one registration for the same beneficiary). The commenter expressed concern that the second registration may be submitted to ''correct'' an error discovered in the first registration, and suggested that users discard the first registration and proceed with the subsequent registration. An individual commenter said all duplicate registrations must be filtered out before conducting the lottery.

Referencing the requirement barring employers from submitting two petitions for the same beneficiary, a couple of companies asked how petitioners are supposed to avoid inadvertently submitting a petition for a beneficiary who also is a beneficiary under an affiliate company's petition. The commenter asserted that, while appropriate, this requirement increases the burden on employers and will be difficult for employers to meet. An individual commenter said employers will not be able to prevent a single beneficiary accepting multiple job offers with several petitioners who unknowingly filed H–1B petitions for the same beneficiary.

Response: Under this final rule, if a specific petitioner submits more than one registration per beneficiary in the same fiscal year, all registrations filed by that petitioner relating to that beneficiary for that fiscal year will be considered invalid. *See* 8 CFR 214.2(h)(8)(iii)(A)(*2*). The current regulations also prohibit a petitioner from filing more than one H–1B petition in the same fiscal year on behalf of the same beneficiary if the beneficiary is subject to either the regular cap or advanced degree exemption, *see* 8 CFR 214.2(h)(2)(i)(G). USCIS will continue to apply the regulatory prohibition on the filing of multiple H–1B cap petitions for the same beneficiary. If the petitioner (including related entities, such as a parent, company, subsidiary or affiliate) files more than one H–1B cap petition for the same beneficiary in the same fiscal year, all of the H–1B cap petitions filed for that beneficiary by the related entities would be denied or revoked, unless the petitioner is able to demonstrate a legitimate business need for filing multiple petitions. USCIS notes that there is no prohibition on a prospective H–1B beneficiary considering job opportunities with multiple employers which may seek to extend a job offer. A petitioner will be able to edit a registration up until the petitioner submits the registration. A petitioner may delete a registration and resubmit it prior to the close of the registration period.

Comment: Other commenters expressed concern about the influx of registrations for unqualified or cap-exempt beneficiaries. An individual commenter expressed concerns that some employers who are not familiar with H–1B eligibility requirements might submit registrations without regard as to whether the beneficiaries are likely to qualify for the H–1B classification, thereby flooding the system with registrations that, if selected, are likely to result in a denial of a subsequently filed petition. The commenter stated that, in the current system, these same employers are likely to consult with counsel prior to incurring the time and expense of submitting an H–1B petition with filing fees, and during such consultation those employers would become aware of the eligibility requirements such that they would be less likely to file a petition that may be selected under the H–1B numerical allocations. A law firm and a professional association said none of the information required to submit a successful registration requires the employer to even minimally evaluate whether the position in question is of ''H–1B caliber,'' or whether the employee has the proper education and credentials to qualify for H–1B status. By not forcing employers to go through an initial eligibility assessment, there is no incentive for employers who are not well-versed in H–1B law to abstain from randomly registering any position that they believe might qualify for an H–1B. In addition, these commenters said there are no regulations or clear guidance to assist employers in determining whether they would qualify for cap-exemption as a nonprofit organization ''related to or affiliated with'' an institution of higher education, so if a petitioner has any doubt as to its cap-exempt status, it will elect to proceed with caution and register.

Response: DHS recognizes that some employers may be more willing to submit a registration, once the registration process is implemented, than they are willing to submit a complete H–1B cap-petition with filing fees. DHS has taken steps, however, as described in more detail above, to prevent speculative or frivolous registrations. However, because the registration system is not intended to replace the petition system, DHS will not have a means for up-front determining whether a registration is meritorious until after it is selected and a petition resulting from such registration is properly filed. DHS recognizes that some registrations will not lead to approved H–1B cap-petitions, and will therefore hold unselected registrations in reserve and will conduct additional selections if necessary.

Comment: An individual commenter said DHS should build a database to link the identity of the beneficiaries and the petitioners to determine whether multiple petitioners share the same set of beneficiaries. The commenter said these petitioners should be required to submit additional information to prove they are not abusing the system and be notified that H–1B transfers would not be processed between these petitioners for these beneficiaries, unless further evidence is provided. This commenter also said DHS should closely monitor, analyze, and require more information from companies with less petitioning history, high petition denial ratios, and relatively low prevailing wages in their respective industries.

Response: The regulations do not currently restrict multiple unrelated employers from petitioning for the same beneficiary or beneficiaries, and DHS does not intend to impose such a limitation in the registration process in this final rule. As described elsewhere, DHS will be putting measures in place to discourage non-meritorious registrations, and taking appropriate action against those who do file non-meritorious registrations, but will not adopt the commenter's suggestion of requiring additional evidence at the time of registration because doing so is inconsistent with creating a streamlined

process for administering the H–1B allocations.

Comment: Some commenters, including a form letter campaign, said the labor condition application (LCA), which is a critical source of data on employers who seek to hire H–1B workers and what positions and wages they are offering, requires third-party placement disclosure up front and includes the location of the end client, should be required when filing the registration to deter staffing companies from filing registrations based on purely speculative employment. A union stated that the LCA is the primary tool that exists within the H–1B program, and it would be counterproductive to further undermine the utility of the LCA, and by extension the role of the DOL in overseeing the program, by allowing pre-registration without requiring that this basic threshold be met. Another union similarly stated that, while understanding DHS rationale for a more efficient administrative process for the agency, removing the LCA filing from the initiation of the H–1B petitioning process is not a productive trade off, as this information is essential to maintaining the integrity of the H–1B petition filing process and the overall H–1B program.

Response: The period of employment on an LCA may not exceed three years for an LCA issued on behalf of an H–1B nonimmigrant. Thus, if an LCA is required with the electronic registration, and the registration is submitted prior to April 1, a petitioner would not be able to request a full three years of H–1B classification for the beneficiary. DHS has decided not to require an LCA with the filing of a registration so that petitioners can, if appropriate, request the full three years in H–1B status. DHS believes that the measures described above are sufficient to deter companies from filing registrations based on purely speculative employment.

Comment: To deter abuse of an electronic system, an individual commenter suggested that, during registration, every petitioner must provide evidence of a certified LCA, degree certificate, a bona fide job offer letter and a client job offer letter if the beneficiary would be placed with a third-party client.

Response: DHS is not adopting this recommendation. For the reasons stated above, a certified LCA will not be required prior to submission of a registration. DHS believes that requiring the evidence listed by the commenter at the registration stage would significantly increase costs to both USCIS and employers, and would therefore significantly reduce the overall benefit of the electronic registration system.

Comment: An attorney suggested that failing to submit a petition upon selection should result in USCIS refusing to consider any other H–1B candidates selected for processing for that employer.

Response: The rule requires registrants to attest that they intend to file an H–1B petition for the beneficiary in the position for which the registration is filed. However, USCIS recognizes that there may be some legitimate reasons that a petitioner cannot ultimately file for the beneficiary once a registration is selected and therefore, USCIS is not imposing a ban on accepting other petitions from that employer. If USCIS finds that petitioners are registering numerous beneficiaries but are then not filing petitions for selected beneficiaries, USCIS will investigate those practices and could hold petitioners accountable for not complying with the attestations and may refer the matter to a law enforcement agency for further review and possible enforcement action.

Comment: A business association stated that, even if the government observes manipulation of the online registration system, USCIS will not be able to prevent those employers from flooding the system to improve their chances of being selected under the H–1B allocations. The commenter therefore requested that USCIS (1) provide additional information to the public about the effectiveness of the government's legal authorities and operational tools to prevent such abuses, and (2) then allow the public additional time to analyze and submit comments on whether the benefits of the proposal outweigh potential unintended consequences.

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. As the testing continues, USCIS is exploring a number of options for efficient operation and maintenance of the system. To mitigate the potential for abuse of the system, and to ensure that the benefits of the system are not outweighed by the potential that unscrupulous registrants may try to game the system, this final rule requires registrants to attest that they intend to file an H–1B petition for the beneficiary in the position for which the registration is filed. This attestation is intended to ensure that each registration is connected with a bona fide job offer and, if selected, will result in the filing of an H–1B petition. If USCIS finds that petitioners are registering numerous beneficiaries but are not filing petitions for selected beneficiaries at a rate indicative of a pattern and practice of abuse of the registration system, USCIS will investigate those practices and hold petitioners accountable for not complying with the attestations, consistent with its existing authority to prevent and deter fraud and abuse. *See DHS Delegation 0150.1(II)(I).* For example, USCIS may refer the matter to a law enforcement agency for further review and enforcement action. *See Id.*

Comment: Some commenters said there are insufficient safeguards and clarity in the rule to adequately address system fraud and abuse. An industry association stated that, while the NPRM mentions the possibility of investigations if USCIS detects patterns of abuse, the rule does not clarify what enforcement mechanism can be used to protect the integrity of the registration system.

A few industry associations supported attestation requirements requiring a petitioner to affirmatively declare or certify that there is a bona fide opportunity for each entry submitted, as well as the intent to file H–1B petitions that are selected.

Referencing the NPRM statement that USCIS will monitor whether selected registrations are corresponding with actual H–1B visa petition filings, some commenters requested additional clarity on how this data will be tracked, the criteria the agency will use to determine whether there is potential abuse of the program, and the threshold for penalties.

A company provided the following suggestions for an integrity-based incentives structure to prevent abuse of the registration system: (1) Base such a structure on an investigative trigger point, such as where an employer fails to submit petitions for more than ten percent of its accepted registrations, (2) consider bars to future filings for employers who cannot provide legitimate business or other valid reasons for a pattern of registrations for beneficiaries for whom it does not submit a petition after acceptance, and (3) establish notice and a mechanism for pursuing civil and criminal penalties for knowingly false statements in the registration process.

A couple of companies said it is unclear how USCIS will enforce the rule barring parent companies, subsidiaries, and affiliate companies from submitting a petition for the same beneficiary.

A union stated that such investigation and enforcement cannot be undertaken

without adequate resources and staff, and no revenue source has been stipulated for this essential work. Similarly, an attorney stated that the proposal only makes fraud detection more difficult by requiring investigators to weed out fraudulent cap registrations from innocent ones. Another union suggested that compliance and enforcement efforts should be funded through a registration fee and any fines collected.

Response: DHS does not believe that further changes are needed at this time but may consider further revisions in a future rulemaking action. DHS has explained, in response to other comments in this rule, its authority to investigate and refer matters to law enforcement agencies for further action, as appropriate. DHS does not believe that it is necessary or prudent to set a benchmark, such as 10 percent as the commenter suggested, before investigating or suspecting that a petitioner violated the attestation or otherwise abused the system. Cases of potential abuse will involve a case-by-case review of the facts involved, including any mitigating facts or circumstances. For example, a small business that only submits two registrations, both of which are selected, but only files one petition for valid reasons would have a fifty percent failure to file rate, but the relevance of that percentage would be vastly different than a large petitioner with hundreds of selected registrations but a similar fifty percent failure to file rate. Lastly, DHS notes that this final rule does not change how USCIS will enforce the existing rules prohibiting a petitioner (including related entities) from filing multiple H–1B cap-petitions for the same beneficiary in the same fiscal year, absent a legitimate business need to do so. USCIS will continue to enforce the existing prohibition, codified at 8 CFR 214.2(h)(2)(i)(G). If a petitioner (including related entities) files multiple petitions in violation of 8 CFR 214.2(h)(2)(i)(G), USCIS will deny or revoke all petitions filed on that beneficiary's behalf by the petitioner.

Comment: A labor union commented that registration will only be effective in protecting workers from fraud and abuse of the system if it allows for public access to employer information at the initial registration phase, and also creates an active mechanism for public objection and comment that will be taken into consideration by those ultimately approving H–1B petitions. Similarly, another labor union suggested that DHS make the information in the proposed registration system public and available as registrations are filed, selected, and ''H–1B visas are awarded.''

Response: DHS appreciates the commenters' concerns and suggestions but will not be adopting the suggestions given that the amount of information gathered as part of this streamlined registration process would not be sufficient to provide for meaningful consideration of the issues raised by the commenters. For example, the employer will not be required to provide information regarding the wage offered, or other details regarding the terms or conditions of the offered employment. Additionally, the registration process will not involve an adjudication of eligibility, but merely a random selection of registrations submitted. DHS will, however, consider making available to the public data collected through the registration system. Further, DHS is considering a separate notice of proposed rulemaking to strengthen the H–1B program, and some of the commenters' concerns and suggestions may be more within the scope of that separate rulemaking.

Comment: Two commenters urged that, before a final rule is promulgated, USCIS needs to develop meaningful solutions that will guarantee the integrity of the registration process. Similarly, a professional organization stated that USCIS should reach out to U.S. employers and immigration attorneys to obtain feedback and workable solutions to address these issues and better ensure the integrity of the system.

Response: USCIS will be suspending registration for FY 2020 as we seek to ensure that the system is secure, efficient for both stakeholders and USCIS, and the integrity of the H–1B program is maintained. We are considering all comments in this regard. If comments or issues raised warrant further public review, DHS will seek it via standard administrative procedures, which may include future rulemaking. Note that DHS will continuously seek improvements to the system, both prior to and after it is required for use by the public. Whether such improvements require a future rulemaking depend on the changes or efficiencies sought. Therefore, future rulemaking on this issue is a possibility even after full implementation for use.

Comment: SBA Office of Advocacy and a trade association expressed concern that USCIS is seeking feedback from the public on ''ways to enhance the integrity of the registration system and reduce potential for abuse,'' but is only giving the public 30 days to recommend solutions to fix this proposal and may implement this proposal in the upcoming season despite these concerns.

Response: USCIS will be suspending registration as we seek to ensure that the system is secure, efficient for both stakeholders and USCIS, and the integrity of the H–1B program is maintained. We are considering all comments in this regard. If comments or issues raised warrant further public review, DHS will seek it via standard administrative procedures, which may include future rulemaking. Note that DHS will continuously seek improvements to the system, both prior to and after it is required for use by the public. Whether such improvements require a future rulemaking depend on the changes or efficiencies sought. Therefore, future rulemaking on this issue is a possibility even after full implementation for use.

c. Suggestions To Deter Fraud Related to Beneficiaries

Comment: Several commenters said DHS should limit the number of applications filed per beneficiary to deter flooding of the registration system with multiple applications sponsored by different companies for one beneficiary. Similarly, another commenter said a beneficiary should be counted as only ''one person'' in the selection process regardless of the number of H–1B registrations or petitions filed for that beneficiary, and if any one of the registrations or petitions filed on behalf of that beneficiary is found to be invalid/fraudulent, all applications for that beneficiary should be rejected and the number made available to other candidates. A law firm said employers would like to avoid a situation in which a beneficiary gets two cap cases selected and chooses a different employer and suggested that USCIS create a process to catch duplicates from different companies. However, the commenter expressed concern that USCIS might err and reject the registration for a beneficiary who has the same name as another beneficiary but is actually a different person, concluding that the registration system should control for this possibility. Some commenters stated that, should the beneficiary wish to accept a different job offer, USCIS should allow for a change of employer petition to be filed that is not subject to the cap. Another suggestion was to alert the beneficiary that they are associated with multiple petitions, require the beneficiary to choose one within a specified period of time (*e.g.,* 30 days), and revoke the un-used registrations to allow more cases to be selected.

Another commenter asked if the necessary precautions have been

considered to ensure that a beneficiary does not submit a registration on behalf of the petitioner to avoid having duplicate registrations. One commenter said limiting a beneficiary to one registration will make it easier for DHS to complete its data mining and monitor filing rates of individual employers, and another commenter said there should be direct denial of petitions that have multiple filings for the same beneficiary. A professional association stated that it is unclear whether protections are in place to prevent sabotage of the system and ensure that only authorized company representatives and attorneys can submit registrations, and without such protections, the system is open to abuse. A law firm stated that USCIS should ensure a password protected and employer-verified ''Employer Profile'' in which either the employer and/or their authorized representatives are given protected and confidential access with a username and password.

Response: DHS notes that under the current process, with limited exceptions, multiple unrelated employers presently may file H–1B cap petitions for the same beneficiary. DHS believes that the registration process should similarly not preclude more than one unrelated employer from registering for the same beneficiary. DHS believes that such a limitation could disadvantage employers, such as small businesses, who might be unable or not as well-positioned to submit a registration before another employer seeking to hire the same beneficiary. If USCIS does a sweep for duplicate petitions, it will only look for registrations from the same employer for the same beneficiary. DHS believes that the information collected at the time of registration is sufficient to control for the possibility that a petitioner might submit registrations in the same fiscal year for two different beneficiaries that have the same name. As petitioners or authorized representatives will be required to complete registration on behalf of beneficiaries, USCIS does not anticipate duplicate registrations from both the petitioner and the beneficiary. As described elsewhere, DHS will be putting measures in place to discourage non-meritorious registrations, and will take appropriate action against those who do file non-meritorious registrations. USCIS is exploring a number of options for efficient operation, use, and maintenance of the system.

Comment: A commenter said employers should be required to attest that they have not submitted H–1B petitions based on false resumes, fake experience, and/or fake training. The commenter said that fraud has plagued the H–1B process and this is good first step but there needs to be more scrutiny.

Response: DHS notes that petitioners are already required to certify, under penalty of perjury, when completing the Form I–129 petition that any supporting documents submitted with the petition are complete, true and correct. During the course of an H–1B petition adjudication, USCIS will review the beneficiary's qualifications. Any attempts to submit fraudulent evidence will be handled and reviewed under the current adjudication process and in coordination with the USCIS Fraud Detection and National Security Directorate. Additionally, as stated in the Unified Agenda, in a separate proposed rulemaking, DHS will propose to revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages.

7. Other Comments on H–1B Registration Program

Comment: A business association stated that the final rule should acknowledge that USCIS has no authority to determine which employers can submit registrations.

Response: DHS agrees with this commenter and has neither proposed in the NPRM nor included any limitation in this final rule regarding which employers can submit registrations.

F. Selection, Notification, and Filing

1. Annual Cap Projections, Reserve Registrations, Registration Re-Opening

Comment: An individual commenter stated that any ''application'' rejected or withdrawn after the H–1B selection process should be subtracted from the selected cap petitions count and the numbers be made available for wait-list candidates. Another individual commenter said that more H–1B petitions would be filed under the electronic submission process, and that many would be weak or non-meritorious and rejected. In that case, the commenter asked if USCIS would allow more unselected petitions into the system, or whether fewer H–1B visas would be granted in the end. An individual commenter suggested that unselected H–1B petitions should be granted the chance to apply for an open spot if a cap-selected case is denied on merits.

Response: USCIS randomly selects a certain number of H–1B cap-subject petitions projected as needed to meet the numerical limitation. USCIS makes projections on the number of H–1B cap-subject petitions necessary to meet the numerical limit, taking into account historical data related to approvals, denials, revocations, and other relevant factors.[8] USCIS uses these projections to determine the number of petitions to select to meet, but not exceed, the 65,000 regular cap and 20,000 advanced degree exemption, although the exact percentage and number of petitions may vary depending on the applicable projections for a particular fiscal year. Similarly, in years when USCIS uses the registration system, it will project how many registrations need to be selected in order to meet, but not exceed the numerical limitations. Unselected registrations will remain on reserve for the applicable fiscal year. If USCIS determines that it needs to increase the number of registrations projected to meet the regular cap or advanced degree exemption, and select additional registrations, USCIS would select from among the registrations that are on reserve a sufficient number to meet the cap or advanced degree exemption, or re-open the registration period if additional registrations are needed to meet the new projected amount.

Comment: A business association requested that USCIS provide additional clarity on how it will select extra registrations in years of high demand. A law firm identified issues regarding availability, allocation and wait lists, and submitted several specific questions with a request that USCIS address the concerns therein. For example, if the registration period is closed, and the H–1B petition is denied, how quickly will the number go back into the pool for the next person on the wait list, *e.g.,* after the period for appeal has passed? Will there be a prohibition against the petitioner filing a new H–1B petition on behalf of the named beneficiary under that registration until the next fiscal year? If the registration period is still open, and the H–1B petition is denied, resulting in the number going back into the pool, may the petitioner submit a second registration for the named beneficiary, and file a new H–1B petition if the new registration is selected?

Response: As stated above, if USCIS determines that it needs to increase the number of registrations projected to meet the regular cap or advanced degree exemption, and select additional registrations, USCIS would select from among the registrations that are on reserve a sufficient number to meet the cap or advanced degree exemption, or re-open the registration period if additional registrations are needed to meet the new projected amount. Although USCIS has not determined the

[8] *See* 8 CFR 214.2(h)(8)(ii)(B).

specific amount of time it will take to go to the reserve pool for additional registrations, USCIS intends to monitor the selected of number of registrations closely to determine if more registrations will need to be selected such that a sufficient number of petitions are filed to meet the number of petitions projected as needed to reach the regular cap or advanced degree exemption. As stated elsewhere, DHS is prohibiting petitioners from submitting more than one registration for the same beneficiary during the same fiscal year.

2. Notification

Comment: A law firm requested that USCIS notify selected petitioners by mail, noting the importance of establishing a reliable method of reaching and informing those on the reserve list. Another law firm suggested that the filing notification should be accessed online, similar to the CBP I–94 system. Since proof of selection must be submitted with the petition filing, the commenter argued that an email notification could be easily lost or deleted, the commenter urged that users have online access to get a copy of the notification. An individual commenter suggested that an electronic notification of selection should be issued to the employer, attorney and beneficiary to ensure that all parties are aware of, and prepared for, the appropriate next steps. Two companies argued that the proposed requirement to submit a copy of the registration information with a filed petition is unnecessary and burdensome. A law firm urged USCIS to provide additional means to obtain copies of selection notices because of the unreliability of email, and the possibility that a company's authorized representative might change. The commenter suggested that selection notices should be accessible via a secure portal on the USCIS website, or USCIS should provide a method for requesting a duplicate copy of the selection notice. Alternatively, USCIS should include a field for attorney or accredited representative in the registration, so that multiple parties receive the selection notice. Finally, a law firm requested that USCIS provide guidelines indicating the time period for notifying petitioners.

Response: As noted, USCIS will be suspending the registration requirement for the FY 2020 cap season (beginning April 1, 2019) to complete all requisite user testing of the new H–1B registration system and otherwise ensure the system and process are operable. Petitioners and their representatives will be able to login and see registrations and/or selection notices and print a copy of these selection notices if needed. USCIS will not be separately notifying the beneficiary and DHS does not believe that it is necessary to do so given that the petitioner is the affected party in the administrative proceeding. DHS believes that requiring petitioners to submit a copy of the registration with the associated petition is necessary to ensure efficient and timely processing and adjudication of the petition. Otherwise, there may be substantial delay in verifying and matching a filed petition with a specific registration. As the testing continues, USCIS is exploring a number of additional options for efficient operation and maintenance of the system and may consider further revisions in a PRA or future rulemaking action.

3. Filing Time Periods

Comment: A number of commenters stated that, once a case is selected, there will be little time to actually prepare the case and file it within the deadline USCIS will set. The commenters asserted that 60 days will not always be enough time, and employers and their counsel with large volumes to file will be overwhelmed. Many commenters, including business or trade associations, advocacy organizations, professional associations, companies, and attorneys, commented that 60 days will be an insufficient amount of time for a company to gather all the necessary documentation to properly file the petition. For large companies that have several hundred registrations selected and must file all of those petitions within a 60-day period, those companies could easily be overwhelmed with such a large workload in a very compressed time period. The commenter also stated that the filing periods could cause uncertainty for their business because it could potentially produce a situation where even more petitions are not approved by the time the company expected the worker to commence employment. Additionally, a few commenters, including a trade association, a professional association, a law firm, and an attorney, argued that 90 days will be a more sufficient amount of time to complete a filing. The professional association further recommended that USCIS should allow for a 30-day extension of filing periods if, for whatever reason, the petitioner is unable to meet a filing deadline. Some commenters, including trade or business associations, advocacy groups, a professional association, and a company, recommended a 120-day period to file an H–1B visa petition after a registration is selected. SBA Office of Advocacy said USCIS should set a timeline with specific dates for this H–1B visa registration and petition process so that businesses can plan their workforce and budgets properly. A trade association commented that the petition preparation process, which includes filing a LCA with the U.S. Department of Labor and a prevailing wage determination, can take up to 6-months for some employers. A business association argued the compressed 60-day filing period could cause processing delays associated with outstanding petitions, which could make it difficult for companies to anticipate projected staff and workforce needs because of uncertainty if a petition will be approved or not. A law firm expressed concern with the variable nature of the length of filing period, reasoning that USCIS designation of a filing period on a case-by-case basis would cause unnecessary confusion for employers with multiple H–1B filings.

A company commented that because it would be difficult to complete the large number of H–1B visa petitions that it submits annually in a 60-day period, the company would be forced to prepare all potential cases in advance of finding out which registrants had been selected. The company argued that having to prepare all of its petitions due to the brief filing window defeats one of the main goals of the registration process, which is eliminating wasted preparation work. Other commenters, including trade associations, advocacy groups, professional associations, and a company, expressed similar concerns about the proposed filing period negating the promised benefits of the rule because companies would have to perform preparation work prior to finding out which registrants had been selected.

An advocacy group argued that the proposed 60-day filing window is aggravated by USCIS' recent policy memoranda, including the policy memo ''Issuance of Certain RFEs and NOIDs; Revisions to Adjudicator's Field Manual (AFM), Chapter 10.5(a), Chapter 10.5(b).'' The commenter stated that the policy memoranda updates guidance to adjudicators, granting them both broad discretion to deny cases without first issuing request for evidence (RFE) or notices of intent to deny (NOID). The commenter went on to say that, if this rule were to become final as proposed, petitioners who neglect to provide certain evidence due to the rushed proposed timelines could be outright denied, instead of issued an RFE and given an opportunity to address whatever deficiency the officer found.

Response: DHS appreciates these comments and has reconsidered the period of time that will be granted for filing a petition. DHS is changing the timeframe for the filing of petitions in response to these comments and will provide for at least 90 days to file a petition for which a registration has been selected. After such selection, petitioners will be notified by USCIS of the exact amount of time allowed for filing the petition, which will in all cases be at least 90 days, but may be longer at the discretion of USCIS. In addition, in response to certain concerns raised, including cap-gap relief as further explained below, USCIS will not implement the staggered filing system as detailed in the proposed rule. If their registration is selected, petitioners may file the relevant H–1B as allowed under current regulations, no more than 6 months prior to the date of need (commonly referred to as the employment ''start date'' indicated on the petition). Therefore, petitioners filing a petition based on a selection from the initial registration period may file such petitions on April 1 (if a business day) or the first business day thereafter, as is allowable under current regulations. DHS notes that the period of at least 90 days to file an H–1B cap-subject petition after registration selection also applies to those selections that occur outside of initial registration selection (*e.g.* selections following a re-opening of the registration period). In each instance, following selection of the registration, the employer will be given at least 90 days to file the H–1B cap-subject petition on the basis of that registration selection.

Comment: A few commenters stated that the proposed registration requirement and filing window significantly shifts the timetable for submitting and receiving decisions on H–1B petitions later into the year. The commenters asserted that the extended filing deadline significantly pushes the timeline for submitting H–1B petitions later into the year and shrinks the period of time USCIS has to adjudicate the petitions before the start of the fiscal year on October 1. The commenters argued that this would almost certainly cause petition filings to be postponed and adjudication of petitions to be delayed, forcing a greater number of U.S. employers and prospective H–1B employees to wait beyond the start of the fiscal year on October 1 for decisions on their petitions. A few commenters, including a law firm and advocacy group, stated that the proposal to allow staggered filing windows would further exacerbate delays in the adjudication of petitions beyond October 1. A trade association commented that the proposed filing windows beginning in April would only cause further delay since the current processing time is around 9 months. Two trade associations recommended that USCIS conduct the lottery as early as January or February. A trade association noted that, if USCIS is unable to move the date of the lottery, then the agency should verify that the lottery and the confirmation of its corresponding results will occur on April 1 (or the next business day if April 1 falls on a weekend).

Response: As noted above, petitioners will have at least 90 days to file a petition for which a registration has been selected. After such selection, petitioners will be notified by USCIS of the exact amount of time allowed for filing the petition, which will in all cases be at least 90 days but may be longer at the discretion of USCIS. Further, USCIS will not implement the staggered petition filing system as detailed in the proposed rule. Petitioners filing a petition based on a selection from the initial registration period may file such petitions beginning on April 1 (if a business day) or the first business day thereafter, as is allowable under current regulations. Based on a concern from the SBA Office of Advocacy, and other commenters that extending the registration period too far in advance may be detrimental to small businesses that are not able to project and identify potential beneficiaries as early as larger businesses, USCIS believes that the current timeframe of opening the registration period at least 14 calendar days before the earliest date on which H–1B cap-subject petitions may be filed for a particular fiscal year is an appropriate time for the registration and lottery.

Comment: An individual commenter stated 60 days is plenty of time to gather documents, create the petition, and file. Another commenter asserted that 60 days is too much time, as an LCA only takes a week to be certified, and said that 30 days would be a reasonable time.

Response: While USCIS agrees with the commenter that 60 days would likely be sufficient, it understands that many commenters do not share this viewpoint and have requested a longer period. Therefore, USCIS has extended the filing period to at least 90 days.

Comment: A business association asserted that a 4-month filing period after registration is selected and delaying implementation of the regulation would allow for sufficient time for employers to gather proper documentation and allow the government time to adjudicate H–1B Petitions before the beginning of the next fiscal year. The commenter also argued the proposed filing windows beginning in April would only cause further delay since the current processing time is around 9 months.

Response: As noted above, USCIS is not implementing the staggered filing aspect of the proposed regulation at this time. USCIS will announce in the **Federal Register** when the registration process will be implemented for the first time in advance of the cap season in which it will be operationalized. In addition, petitioners may file the petition based on a selected registration up to six months before to the employment start date, as is already allowable under current regulations. Further, the filing window will be at least 90 days for all petitions. This should provide sufficient time for petitioners to gather necessary documents and file their petitions. It further allows for USCIS to better manage and resource the adjudications process so that such adjudications are done as efficiently as possible. Importantly, it also allows those requiring ''cap gap protection'' (as explained further below) to file the petitions and have beneficiaries continue work authorization as allowed under current regulations.

Comment: Many commenters expressed concerns about how the proposed filing time period would impact cap-gap beneficiaries. A few commenters, including a law firm and a company, commented that the foreseeable delays in H–1B visa petition adjudication that is likely to result because of the proposed filing time periods would cause many prospective H–1B employees not to receive a decision by October 1 when their cap-gap extension and employment authorization would expire. Specifically, the commenters argued that F–1 students relying on the cap-gap extension until October 1 will face many difficulties, such as financial loss, interruption to their lives, and uncertainty about their ability to remain in the country, as of a result of anticipated delays in the adjudication process. An individual commenter said that the proposed rule overlooked the interaction between the new registration requirement and ''cap gap'' currently provided to international student graduates with expiring F–1 status and Optional Practical Training (''OPT'') provided under 8 CFR 214.2(f)(5)(vi). The commenter urged DHS to clarify in the regulations which document will trigger ''cap gap'' relief: the notice that the electronic registration has been

selected or the actual H–1B petition receipt notice. The commenter recommended that the electronic registration notice trigger the ''cap gap'' relief to provide predictability and peace of mind for students and their employers who may have to wait at least 60 days after April 1 in order to file their H–1B petition in order to qualify for ''cap gap'' relief. The commenter also suggested that the regulations could be revised to terminate ''cap gap'' if the selected employer ultimately fails to file the H–1B petition. Another commenter expressed concern over how the regulation would impact international students on an F–1 visa authorized to work under the Optional Practical Training (OPT) program. Another commenter warned that the H–1B start-date would affect OPT status, and requested that USCIS remove the OPT extension cap in the event of a delay to the H–1B start date. A law firm addressed uncertainty around how F–1 students will claim cap-gap extensions, including which documents to use to prove cap-gap eligibility. The firm notes that under the established system, proper filing of H–1B petitions and I–797 receipt notices from USCIS were used to extend F–1 status, and the new proposed system does not address this issue. The firm questioned whether students can use selection notices to claim cap-gap extensions, and whether students with applications on reserve are eligible for cap-gap extensions. The firm cautioned that the lack of clarity around the effect of the proposed change on cap-gap extension timelines and eligibility puts F–1 students with pending H–1B petitions at risk of inadvertently accruing unlawful presence in the United States. Accordingly, the firm requested that USCIS amend the rules governing the cap-gap extension before, or concurrent with, the rollout of the proposed changes. Finally, an attorney stated that the rule does not address how the system will interface with cap-gap work authorization, raising questions about whether cap-gap extensions will be granted upon registration or selection in the lottery, whether cap-gap extensions will be granted if registration is suspended, and whether cap-gap extensions will be granted if processing is not completed by the start of the fiscal year.

Various potential solutions were recommended to deal with this issue, including the following:

- A trade association and a professional association requested that USCIS extend the cap-gap work authorization through the date that a decision is issued on a beneficiary's H–1B visa petition.
- A trade association urged USCIS to ensure that cap-gap protections take effect once a pre-registration is filed, preceding the official petition filing, on behalf of the student beneficiary.
- An advocacy group requested that the rule be revised to add text establishing that in the case of an F–1 nonimmigrant on either post completion 12-month OPT or a STEM OPT extension that the petition filing date be deemed to be the earlier of the practical training end date or the filing date.
- A couple companies commented that employers need cap-gap to apply to selected registrations as well as properly filed petitions if USCIS implements this rule.

Response: DHS appreciates these thoughtful comments and observations and will not be implementing the staggered filing process as proposed. Therefore, as is allowed under current regulations, petitioners will be able to file a petition based on a selected registration as much as 6 months prior to the start date even in years where USCIS uses the registration system. Accordingly, petitioners will be able to avail the beneficiary of any applicable cap gap protection of 8 CFR 214.2(f)(5)(vi) upon the filing of the H–1B cap-petition, as they currently may under the existing regulations. DHS believes that the timing of the annual initial registration period, which will occur before April 1 each year, allows for selection to occur prior to when H–1B cap-petitions may be filed, such that petitioners, if their registration is selected, have the ability to file as soon as eligible (*i.e.* April 1 or the next business day if April 1 falls on the weekend or a holiday). Petitioners with selected registrations will not have to wait for an applicable staggered filing window to begin. Removing the staggered filing concept will effectively maintain the status quo as it relates to cap-gap relief and provide petitioners with selected registrations with the flexibility to choose to file the associated H–1B cap-petition as soon as eligible to file or to wait to file at any other point during the applicable filing period.

DHS believes that the elimination of the staggered filing window concept moots out commenters' suggestions to revise the cap-gap provisions to provide cap-gap relief based on the selection of a registration rather than the filing of a petition. To the extent that such suggestions are not moot, DHS declines to revise the cap-gap provisions to rely upon the submission of a registration request or registration selection because DHS does not believe that extending the authorized period of stay or employment authorization of an F nonimmigrant should be based on submission of a registration or registration selection. Registration is designed to be a streamlined process to make the H–1B cap-selection process more efficient, and relying upon this process to extend immigration benefits is inconsistent with the narrow purpose of the requirement. Further, DHS believes that relying on registration to extend immigration benefits, such as those provided by cap-gap, would increase the risk for fraud and abuse of the system given that unscrupulous individuals could seek to submit fake, abusive or frivolous registrations simply to obtain such benefits.

Regarding the suggestion that current regulations be amended to allow for cap gap relief beyond October 1 due to lengthy adjudications, USCIS believes the new registration process and 90-day filing window will afford USCIS the ability to adjudicate the cap-subject H–1B petitions more efficiently. DHS believes, however, that comments related to cap-gap relief generally, such as suggestions to revise the cap-gap provisions to allow for cap-gap relief beyond October 1 and to the date of adjudication are outside the scope of this rulemaking. As noted above, future rulemakings are under consideration, including possible changes to the cap-gap relief regulations.

Comment: An individual commenter asked whether USCIS would be in charge of parsing through applications, if they were randomly selected, or if there was an algorithm which would judge the quality of each application.

Response: USCIS will have a random registration selection process. USCIS will not evaluate the ''quality'' of the registration other than as discussed in this rule (*e.g.,* to eliminate duplicate submissions). USCIS has experience in conducting a random selection in administering the H–1B cap and will continue to use a random selection process when selecting registrations.

Comment: An organization stated April 1 should be the first day to submit LCAs, not to file H–1B petitions. The commenter argued that, according to a Department of Labor regulation (20 CFR 655.730 (b)), an LCA should be submitted to ETA no earlier than 6 months before the date of the period of intended employment, so April 1 would allow for H–1B visas to begin October 1, the start of the fiscal year.

Response: The period of employment on a certified LCA may not exceed three years. DHS will not require the submission of an LCA with a

registration so that petitioners can, if appropriate, request the full three years in H–1B status. Thus, a petitioner will be able to register prior to April 1, then if selected, may request the certification of an LCA by DOL prior to filing an H–1B petition. As noted above, petitioners will have at least 90 days to file a petition based on a registration selection. Therefore, petitioners could choose to submit an LCA to DOL on or after April 1, which would allow for an LCA validity period beginning October 1 under DOL regulations. Note that the LCA must be submitted and certified before the H–1B petition is filed in accordance with the registration selection notice with USCIS.

Comment: Some commenters, including a trade association, a professional association, an advocacy group, a company, and a law firm, encouraged USCIS to reinstate premium processing for H–1B petitions to mitigate the effects of the anticipated delays caused by the proposed changes. An advocacy group and professional association commented that the proposed rule should be revised to codify mandatory access to premium processing for all H–1B petitions other than those that are extension requests to continue employment with the same employer. A trade association requested that the regulatory text explicitly provide employers with access to premium processing for any H–1B petition that is subject to the numerical limitations in either the H–1B cap or the advanced degree exemption.

However, because of the significant cost of premium processing, a few commenters, including a trade association and a company, expressed hesitation for relying on premium processing as the solution to the timing issues created by the proposed filing window.

Response: Mandatory access to premium processing would impede USCIS' ability to manage workloads across all benefit types as needed and as filing surges arise. Therefore, DHS is not adopting this suggestion.

Comment: An advocacy group encouraged USCIS to consult with DOL, reasoning in part that DOL's insight and involvement could help craft clearer, more realistic timelines for filing.

Response: DOL reviewed and commented on the proposed rule as part of the inter-agency clearance process and was consulted during the process of drafting the proposed rule.

Comment: A law firm requested that the filing period be split into at least two periods similar to the H–2B program to allow petitioners adequate time to prepare and file H–1B petitions for selected registrants. An individual commenter in support of the proposed rule encouraged USCIS to take this opportunity to implement a quarterly registration system that provides U.S. employers with access to H–1Bs throughout the year and eliminates the de facto blackout period resulting from the current annual lottery system.

Response: As noted above, the registration system will be suspended for FY 2020 to allow petitioners sufficient time to prepare for registration. In addition, DHS is finalizing a filing window of at least 90 days to provide petitioners with adequate time for preparation and filing of petitions once a registration has been selected. Regarding the requests for semi-annual or quarterly cap allocation, the commenter appears to promote greater access to H–1B workers throughout the fiscal year. Unlike in the H–2B semi-annual visa cap, DHS does not have the statutory authority to do a semi-annual or quarterly cap allocation in order to distribute the visas throughout the fiscal year. H–1B visas become available for the new fiscal year on October 1 and are available until they have been used. Therefore, USCIS cannot implement a quarterly or semi-annual registration system without additional statutory authority. Note also that as the H–1B visa cap does not apply to all H–1B petitions, employers may hire H–1B workers at any time during the fiscal year if particular employment circumstances do not warrant a count against that fiscal year's annual limitation.

G. Advanced Degree Exemption Allocation Amendment

1. Support for the Reversal of Selection Order

Comment: Many commenters expressed support for the reversal of the selection order because it prioritizes applicants who invested in advanced degrees from U.S. institutions. Several commenters said the rule could help reduce or prevent jobs from being outsourced. A few commenters said the reversal will reduce the probability of selection of applicants with fake work experience.

Response: DHS agrees with the commenters that this rule will prioritize beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education. Although it is unclear how this rule would assist in preventing outsourcing or prevent beneficiaries from submitting fraudulent work experience, as the commenters suggested, DHS strives to enforce the existing H–1B regulations and prevent fraud in all program aspects.

2. Opposition to Reversal of Selection Order

Comment: A few commenters expressed opposition to the selection order reversal, stating individuals with U.S. advanced degrees should maintain their own selection pool.

Response: Reversing the cap selection order is expected to result in a greater number of beneficiaries with master's or higher degrees from U.S. institutions of higher education being selected under the numerical allocations and is in line with the executive order's directive to ''help ensure that H–1B visas are awarded to the most-skilled or highest-paid petition beneficiaries.'' Furthermore, master's or higher degree holders still maintain their own selection pool.

3. Changed Order of Selecting Registrations or Petitions To Reach the Cap Allocations

Comment: Several commenters stated the change in selection order will ensure more higher-skilled workers become H–1B beneficiaries and reward international students who have invested time and money into a U.S. education. A trade association and a company asserted several industries require advanced degrees and this reversal is crucial ensure employers are hiring a competitive workforce. A company further noted the congressional support to facilitate high skilled STEM occupations with advanced degrees, and cited research studies showing the economic benefit of reversing the selection order to prioritize advanced degree applicants. A company and an attorney commented that the potential increase of master's students from the proposed rule would provide benefits to the U.S. economy at large. An individual commenter wrote that master's students will have a better chance of selection for a visa. A trade association argued the potential of up to 16% more H–1B beneficiaries with advanced degrees would greatly benefit companies hiring for technical and other advanced positions.

Response: DHS agrees with the commenters that this rule will prioritize beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education. It was clearly Congress's intent to prioritize such workers by creating a 20,000 cap exemption only for them.

Comment: Some commenters, including a business association, argued the reversal would disadvantage applicants with advanced degrees and

higher skill-sets. Several commenters, including several companies and a business association, asserted the reversed selection order will not ensure the highest skilled workers are filling these jobs because not all occupation fields require an advanced degree. A few companies said this is particularly burdensome to OPT workers. A commenter asserted that the majority of the workforce for some occupations, especially computer science, only hold a bachelor's degree, and suggested allowing flexibility to petition for the candidate with the education needed for their workforce (*e.g.,* bachelor's only, master's, etc.). One company recommended the rule provide a more advanced analysis on how the proposed change will impact the aggregate mix of talent and skills that will be available to meet the nation's workforce needs.

Response: DHS is not restricting a petitioner's flexibility to petition for the candidate with the education needed for their workforce through this rule. DHS believes that changing the order in which USCIS counts these prospective beneficiaries toward the applicable cap projections will likely increase the probability for beneficiaries with a master's or higher degree from a U.S. institution of higher education to be selected each fiscal year, and in turn, increase the number of individuals with a master's or higher degree from a U.S. institution of higher education who are issued H–1B visas or otherwise provided H–1B status.[9] Thus, DHS is not imposing any additional restrictions on petitioners through this rule, but reversing the order in which cap-subject petitions are selected under the caps. DHS further notes that eligibility for the advanced degree exemption, and thus an increased chance for selection under this final rule, is not based on the education requirements for the position in which the beneficiary will be employed. Rather, eligibility for the advanced degree exemption is based on whether the beneficiary has earned a master's or higher degree from a U.S. institution of higher education. Thus, the fact that the employer doesn't require an advanced U.S. degree for the particular position does not preclude the employer from petitioning for a worker with an advanced U.S. degree for that position and improving the chance of selection for their petition. This, however, may result in that employer paying more for that worker, despite the worker not being any more valuable to the employer than the worker who does not qualify for the advanced degree exemption but who might have been selected under the current process and, if approved for the classification and granted status, ultimately employed in the position.

Comment: Various commenters suggested that DHS consider other factors to prioritize cap allocation. An individual commenter stated that the reverse selection order does not make the system merit-based and that other advanced skills should be considered beyond a degree. Some commenters suggested that DHS also evaluate what type of job the H–1B worker will be performing; prioritize technical and skilled positions, and wage levels, give preference or equal opportunity to small companies or companies that are not H–1B dependent employers, increase the cap limit for advanced degree holders, create a different model of selection for non-advanced degree holders based on merit, prioritize selection of petitions for H–1B beneficiaries with STEM degrees, prioritize selection of petitions for H–1B beneficiaries who will not be performing work at a third-party worksite, and implement a quota by region, similar to that used in the immigrant visa context, such that talented people from countries with high literacy rates (European continent, and some parts of the Asian continent, according to the commenter) can have a higher chance of being selected. A few commenters offered a suggestion to place more emphasis on educational background and salary in the cap selection. Several professional associations argued there should be special consideration given to applicants who are healthcare providers, especially physicians, occupational and physical therapists, which require more advanced schooling and licensing. Other commenters, including a company and a business association, stated USCIS should assess an applicant's skill based on other factors beyond U.S. advanced degree, such as foreign graduate degree equivalent, degree field of study, years of experience, and salary. One commenter suggested priority should be given to U.S. advanced degrees, then U.S. bachelors, then foreign advanced degrees.

Response: DHS believes that reversing the cap selection order to prioritize beneficiaries with a master's or higher degree from a U.S. institution of higher education is a permissible interpretation of the existing statute, as explained in detail in response to other comments in this preamble. DHS believes, however, that prioritization of selection on other bases such as those suggested by the commenters would require statutory changes. DHS believes that implementing a quota would be inconsistent with the existing statute, as Congress has implemented quotas in other contexts when it has intended to do so, and the absence of a quota as it pertains to H–1B petitions is an indication that implementing such a limitation by regulation would be inconsistent with congressional intent.

Comment: A few commenters suggested the cap amount be increased, with one commenter elaborating that only applicants with U.S. degrees should be considered for H–1B eligibility. Another commenter suggested increasing the quota for candidate with a U.S. degree. Another commenter stated that applicants with U.S. advanced degrees should not be subject to a quota at all.

Response: DHS is not able to increase the H–1B cap allocations, as the cap allocations are statutory and set by Congress. DHS does not have the statutory authority to only accept petitions for those beneficiaries with U.S. degrees. In addition, DHS is not considering placing additional restrictions on the H–1B degree requirement, to the extent it may do so through regulation, in this rule. Similarly, DHS cannot exempt all U.S. advanced degrees holders from the numerical limitations, as this would be in violation of current statutory authority at INA 214(g)(5)(C).

Comment: One commenter said that the registration process may lead to a higher number of submissions than under the current petition process as multiple employers may submit registrations on behalf of the same individual, but that the number of submissions for advanced degree holders may not increase, and as a result the change in order of selection will not alter the likelihood an applicant with a U.S. master's or higher degree will get selected.

Response: DHS disagrees with the commenter and believes changing the order in which registrations or petitions are selected will likely increase the total number of registrations or petitions selected toward the projected number needed to reach the regular cap allocation for H–1B beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education each fiscal year. The commenter did not provide any data or sources to indicate why the process would lead to a higher number of submissions for beneficiaries that do not

[9] For clarification, the selection of a number of registrations that USCIS projects would be sufficient to meet the regular cap and advanced degree exemption is distinct from the fulfillment of the cap or exemption through ''issu[ance] of visas or otherwise provid[ing H–1B] nonimmigrant status.'' *See* INA 214(g)(1)(A).

qualify for the advanced degree exemption.Thus, as explained elsewhere, DHS believes that the use of a five-year historical average is reasonable and, based on that average, estimates an increase in the probability that an H–1B beneficiary who has earned a master's or higher degree from a U.S. institution of higher education each fiscal year.

Comment: One commenter said the change in order of selection will create a higher priority for U.S. Master's students and lower priority for foreign Ph.D. holders with years of experience.

Response: As previously mentioned, the change in selection order will likely increase the odds of selection under the H–1B regular cap allocation for beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education. DHS believes that Congress, by limiting the exemption to those beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education, intended to prioritize the granting of H–1B status to foreign workers with advanced degrees from U.S. universities over other foreign workers (including those with Ph.D.s from foreign universities). This rule is only changing the probability of selection. While the commenter may be correct that the rule may result in more visas being granted to beneficiaries with a master's or higher degree from a U.S. institution of higher education and fewer foreign Ph.D. holders with years of experience, it is unclear which group has more value to the economy because so many factors need to be considered. For instance, how do foreign degrees compare in wages to U.S. degrees? In what industries are respective workers (certain industries could have high wages despite lower educational attainment)?

Comment: One commenter said prioritizing U.S. Master's degrees encourages applicants to provide falsified resumes.

Response: The commenter did not submit any data or evidence to support this assertion, and DHS does not believe that the change in the selection order will encourage petitioners to submit falsified resumes. A petitioner is not required to submit a beneficiary's resume in support of the H–1B petition, and even in cases where a resume is submitted, USCIS relies upon other objective evidence, such as copies of educational certificates and transcripts, experience letters, or evidence of licensure, to determine if the beneficiary is qualified for the H–1B classification. Any attempts to submit fraudulent evidence will be handled and reviewed under the current adjudication process and in coordination with the USCIS Fraud Detection and National Security Directorate.

Comment: One commenter stated that the change disadvantages students obtaining bachelor's degrees from U.S. institutions.

Response: DHS acknowledges that those students with only bachelor's degrees from U.S. institutions may have a slightly decreased chance of securing an H–1B cap number based on this final rule, but that merely reflects the policy goal, based on the congressional exemption, of increasing the chances more students with advanced degrees from U.S. institutions secure H–1B visas.

Comment: One commenter asserted that an advanced degree does not equate to a higher-skilled beneficiary, so USCIS should assess LCA wage levels (along with degree level) on the LCA in ranking selections (*i.e.,* wage levels under 3 are indicative of cheap labor). The commenter states that failure to do so will result in advanced degree holders who do not have the skills to be hired by major companies and will be paid low prevailing wages as a result.

Response: DHS is reversing the cap selection order to prioritize beneficiaries with a master's or higher degree from a U.S. institution of higher education in accordance with congressional intent, as the numerically limited exemption from the cap for these beneficiaries was created by Congress and appears in the INA. DHS believes, however, that prioritization of selection on other factors, such as salary, would require statutory changes.

Comment: One commenter states that USCIS should not accept petitions where the beneficiary's degree is from a ''for profit'' university.

Response: Note that the advanced degree exemption only pertains to such degrees earned from a U.S. institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended. For-profit universities do not meet this statutory definition.

Comment: One individual commenter argued the reverse selection order does not make the system merit-based and that other advanced skills should be considered beyond a degree.

Response: DHS does not have the statutory authority to prioritize H–1B beneficiaries based on their skills. This final rule, however, will increase the odds of selection under the H–1B regular cap allocation for beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education.

Comment: A business association said reversing the selection order is inconsistent with Executive Order 13788, which directs USCIS to award more H–1B visas to the most skilled or the highest paid beneficiaries.

Response: DHS disagrees with this assertion. Reversing the selection order will likely have the effect of increasing the total percentage of U.S. master's degree holders in the H–1B population. As discussed in further detail in the economic analysis, typically, individuals with a master's degree earn more in wages than individuals with a bachelor's degree. Additionally, workers with a master's degree in selected STEM occupations earn more than workers with a bachelor's degree in those same occupations.[10] While the reversal of the selection order does not guarantee that the selected registrant will be the most skilled or highest paid beneficiary, it increases the probability that a beneficiary with a U.S. master's degree will be selected. And if a U.S. master's degree beneficiary typically earns more in wages, that beneficiary may earn a higher wage than a non-selected beneficiary.

Comment: Several commenters stated work experience and an equivalent degree from a non-US institution should be considered in equal merit to a U.S. master's degree.

Response: DHS cannot adopt this suggestion as it does not have statutory authority to prioritize work experience and advanced foreign degrees. Prioritizing the possible selection of beneficiaries holding a U.S. master's or equivalent degree is consistent with Congressional intent. *See* INA section 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C).

Comment: One commenter stated that USCIS should release data on previous years' selected H–1B applicants, including education level, so the public can assess the need for a new selection process and, if implemented, fairly evaluate its effectiveness.

Response: It is not clear what data the commenter is requesting that USCIS release, and DHS notes that data was provided in the Notice of Proposed Rulemaking. DHS also notes that additional data regarding H–1B petitions is available on the USCIS web page ''Buy American and Hire American: Putting American Workers

[10] Source: Bureau of Labor Statistics, Department of Labor, ''Measuring the Value of Education April 2018'': *https://www.bls.gov/careeroutlook/2018/data-on-display/education-pays.htm.* Visited November, 2018. Bureau of Labor Statistics, Department of Labor, ''Should I Get a Master's Degree?'': *https://www.bls.gov/careeroutlook/2015/article/should-i-get-a-masters-degree.htm#STEM.* Visited November, 2018.

First.'' [11] USCIS will continue to provide information about the hiring practices of employers who petition for H–1B workers through this web page.

Comment: One commenter stated that USCIS data suggests an increasing number of individuals with U.S. advanced degrees are seeking cap-subject H–1Bs, so concerns that the advanced degree exception candidate pool is being diluted is unfounded.

Response: Although data shows an increase in the number of H–1B beneficiaries with advanced degrees in recent years, this is not specific to individuals with U.S. advanced degrees. Also, even assuming beneficiaries with U.S. advanced degrees have increased in recent years, DHS still believes that prioritization for U.S. advanced degree holders is beneficial.

H. Other Issues Relating to the Rule

1. Request To Extend the Comment Period

Comment: A few commenters, including some business associations, requested the comment period be extended by 60 days to give stakeholders an adequate amount of time to determine how the proposal could impact their businesses. Some commenters generally expressed concern that the comment period was insufficient to solicit meaningful feedback and fell over the holidays.

Response: DHS believes that the 30-day comment period was sufficient and declines to extend the comment period. The rule is narrow in scope and 30 days was sufficient time for the public to determine the impacts of the proposed rule, if any, and to prepare and submit comments. The sufficiency of the 30-day comment period is demonstrated by the number of high quality comments received from the public, including individuals, attorneys, corporations and organizations. In addition, DHS notes that the proposed rule had been listed in the publicly available Unified Agenda of Federal Regulatory and Deregulatory Actions since the Fall 2017 publication. Given the narrow scope of the rule, the quantity and quality of comments received in response to the proposed rule, and other publicly available information regarding the rule, DHS believes that the 30-day comment period has been sufficient.

2. Miscellaneous

Comment: A form letter campaign stated that, given that a major goal of this NPRM is to allow USCIS to more efficiently process cap-subject H–1B petitions, USCIS should be required to complete all adjudications of cap-subject H–1B petitions by September 30 of the given year, if visa numbers are used up before the fiscal year begins. The commenters concluded that if employers are required to go through an extra registration procedure for the convenience of USCIS, the agency must commit to reasonable processing times for all cap-subject petitions. An individual commenter similarly stated that USCIS should make the adjudication process faster. An advocacy group supported the decision to digitize the H–1B process, and argued that the funding saved by not having to process thousands of ultimately unsuccessful filings could be redirected towards streamlining the adjudication process. An individual commenter stated that USCIS should commit to reasonable processing times for cap-subject petitions if it was going to require employers to go through an extra registration. A business association stated that employers are concerned about USCIS' ability to adjudicate applications by October 1. A company recommended that USCIS commit to adjudicating all H–1B cap petitions before the beginning of the government's fiscal year. An individual commenter asked if the time period after the H–1B registration is selected, and before the petition is filed, would be long enough for DOL to process a flood of LCAs. A trade association said USCIS should delay the implementation of the proposed regulation until premium processing is fully reinstated and the agency can guarantee the timely adjudication of all H–1B visa petitions in a given fiscal year.

Response: USCIS cannot commit by regulation to adjudicating all cases by September 30, as USCIS must first and foremost be committed to making a proper adjudication under the law and regulations. That said, the registration system is being implemented to foster greater efficiency in the adjudication process and to avoid, to the extent possible, adjudicatory backlogs. USCIS will continue to review the adjudicatory process and make additional improvements as necessary both within and without the rulemaking process. In addition, USCIS is committed to fully transitioning to a digital environment for processing of immigration benefit requests.[12] As such transition is made, USCIS expects further efficiencies to be realized in the adjudication process.

I. Public Comments on Statutory and Regulatory Requirements

1. Costs of the Registration Requirement

Comment: Multiple commenters, including multiple business associations, SBA Office of Advocacy, a company, a law firm, and a form letter campaign, requested that the registration requirement not be implemented for the FY 2020 H–1B cap season. These commenters explained that preparation to file an H–1B cap-petition requires extensive resource commitments around the collection and analysis of required materials, and that they have already expended resources to petition under the current process and will not experience any of the estimated cost savings if registration is required for the FY 2020 H–1B cap. Similarly, multiple immigration lawyers associated with a form letter campaign wrote that their firms had already incurred opportunity costs associated with the preparation of petitions for the FY 2020 H–1B cap. One company argued the proposed rule's costs do not consider resources committed towards petitions not selected in the lottery. One business stated uncertainty related to potential issues with timing and implementation will lead to increased costs, with employers assuming the new process may not be operational for the upcoming fiscal year. Similarly, a company argued the potential risk for issues related to implementation and operation of the registration system could outweigh the estimated cost savings. A professional association stated USCIS's option to reserve the right to delay implementation of the proposed changes would result in significant costs for employers and USCIS. SBA Office of Advocacy highlighted uncertainty around whether FY2020 or FY2021 will be the first ''cap season'' affected by the new process as a significant disruption impacting employer costs. One individual commenter and a law firm suggested the proposed rule adds another layer of bureaucracy to the process for users, and predicted USCIS will spend even more time administering the registration process.

Response: DHS appreciates the concerns raised by these commenters. As already described in the preamble of this final rule, USCIS will be suspending the registration requirement for the FY 2020 H–1B cap season. Therefore, DHS does not anticipate that employers would have expended resources to comply with the current H–

[11] *https://www.uscis.gov/legal-resources/buy-american-hire-american-putting-american-workers-first.*

[12] Please see Regulation Identification Number (RIN) 1615–AC20, ''Electronic Processing of Immigration Benefit Requests,'' in the Fall 2018 Unified Regulatory Agenda at *reginfo.gov.*

1B petition process unnecessarily. DHS will publish a notice in the **Federal Register** to announce the initial implementation of the registration process in advance of the H–1B cap season in which the registration process will be first implemented. DHS reiterates that the cost savings from the registration requirement will be realized after the provision becomes effective, which will occur after the FY 2020 H–1B cap season.

DHS disagrees with the commenter that the rule would impose costs from resources committed towards petitions not selected in the lottery. In the discussion of Executive Orders 12866 and 13563 of both the NPRM and this final rule, DHS recognizes that unselected petitions would still have to submit a registration. However, DHS further analyzes the cost-savings that would accrue to unselected petitioners by no longer having to fill out the lengthy Form I–129 H–1B petition in its entirety. By considering the cost-savings to the unselected petitioners, DHS also took into consideration both current costs and those imposed as a result of this rulemaking. Any costs expended by entities to consider eligibility for beneficiaries would be expended in either the current or new process.

DHS disagrees that the risk issues related to implementation and operation of the registration system could outweigh the estimated cost savings. DHS plans to implement and test the system before it is released. DHS also disagrees that delaying implementation of the proposed changes would result in significant costs for employers and USCIS. A later effective date for the registration requirement would allow more time for entities to get acquainted with and prepared to file a registration rather than the full Form I–129 H–1B petition.

Additionally, DHS disagrees with the commenters that this rulemaking will increase the administrative burdens for USCIS. DHS believes that this rulemaking will reduce the administrative burden that USCIS currently spends on the processing of H–1B petitions as described further in the Executive Orders 12866 and 13563 and further in this comment section.

Comment: A commenter stated that the costs to the government associated with handling and shipping of unselected petitions could be reduced by shredding those petitions rather than returning them.

Response: DHS disagrees with the commenter's assertion that shredding unselected petitions would reduce costs to the government. Even assuming arguendo that the government would save some costs by shredding rather than returning unselected petitions, DHS declines to adopt that alternative as it would still be less efficient and more burdensome than the registration requirement. Shredding the petitions would just address how to handle the hundreds of thousands of petitions at the end of the cap-selection process, but would not address the costs and inefficiencies associated with the receipt and processing of the petitions in order to administer the cap selection process. Further, if USCIS shredded unselected petitions, in addition to incurring the costs associated with shredding, USCIS would still incur additional costs necessary to notify unselected petitioners of the rejections (*e.g.* printing and mailing rejection notices). Petitioners would also still incur the costs associated with preparing and submitting the petitions, and the shredding of unselected petitions would not provide any cost savings for unselected petitioners. As discussed elsewhere, DHS believes that the registration system will benefit the government by no longer having to receive, handle and return large numbers of petitions that are currently rejected because of excess demand (unselected petitions), except in those instances when the registration requirement is suspended.

2. Benefits of the Registration Requirement

Comment: Several commenters expressed support for this rulemaking, particularly in terms of time and cost savings. These commenters stated that the registration process will save USCIS in postage costs by no longer having to return unselected petitions. Some commenters asserted that the decreased burden on USCIS will enable USCIS to adjudicate cases in a more timely manner. Multiple individual commenters, a law firm, and an advocacy group argued that petitioners would realize significant benefits related to a reduction in time spent preparing petitions, while USCIS would significantly reduce administrative costs. Multiple commenters agreed that the registration process would reduce the cost and burden of participation and also alleviate administrative burdens on users. One commenter also approved of the expected cost savings and praised the decision by USCIS to forgo any registration application fee at this time.

Response: DHS agrees with the commenters that the registration process will reduce overall costs for petitioners and help to alleviate administrative burdens on USCIS Service Centers that process H–1B petitions. In this final rule, DHS estimates a cost savings will occur because unselected petitioners will avoid having to file an entire H–1B cap petition and, when registration is required, will instead only have to submit a registration. Therefore, the difference between current costs and the new costs for unselected petitioners when registration is required will represent a cost savings ranging from $47.3 million to $75.5 million, again depending on who petitioners use to submit the registration. The government will also benefit from the registration requirement and process by no longer having to receive, handle and return large numbers of petitions that are currently rejected because of excess demand (unselected petitions), except in those instances when the registration requirement is suspended. These activities will save DHS an estimated $1.6 million annually when registration is required. DHS also agrees with the commenters that the government will save on postage costs by no longer having to mail unselected petitions back to petitioners, when registration is required, and accounts for such cost-savings in the Executive Orders 12866 and 13563 analysis.

3. Labor Market Impacts on the Reversal of Selection Order

Comment: Commenters argued that this regulation will have a more serious impact on certain industries where job training is performed in the United States, or foreign education is an asset, such as medicine and language education. One commenter states that employers already have a shortage of workers at all levels. They went on to state that schools with language-immersion programs have been forced to look outside the United States multiple times for native speakers with education degrees but that the teachers found did not have advanced degrees. This commenter wrote that the proposed changes will negatively impact these schools in their goal of producing globalized adults. Another commenter stated that the chance of a registration or petition for a non-U.S. advanced degree beneficiary to be selected will fall by about 5 percent for years with approximately 172,000 total initial registrations or petitions. The commenter stated that this percentage decrease is significant and that employers rely on non-U.S. advanced degree holders, including those who are trained in the United States, particularly in medicine. A medical association also argued the changed order for selecting registrations would make it more difficult for non-U.S. citizen international medical graduates and

those completing their education under a graduate medical examination (GME) to obtain an H–1B visa. The commenters said this would exacerbate physician workforce shortages throughout the U.S. and reduce access to care in underserved communities. One individual commenter argued the rule does not go far enough in favoring healthcare workers who would have the most immediate impact in addressing labor shortages throughout the country. Additionally, a trade association suggested the prioritization of those with master's degrees would exacerbate ongoing talent gaps and make it difficult for companies to effectively hire talent. Similarly, multiple trade associations argued that many highly skilled jobs in STEM fields do not necessarily require an advanced degree. As a result, the reversed order of selection in the proposed rule will disadvantage such applicants and negatively impact the workforce.

Response: DHS appreciates the commenters' concerns of the impact this rule will have on beneficiaries under certain industries. DHS agrees there may be a probability for a decline in the number of petitions for beneficiaries who do not have a master's or higher degree from a U.S. institution of higher education or that have a master's or higher degree from a foreign institution. However, DHS believes that reversing the selection process more closely aligns with the intent of Executive Order 13788. DHS used historical submissions to base its economic impact and estimates a 3 percent decline to those beneficiaries with only a bachelor's degree from a U.S. institution of higher education or a master's or higher degree from a foreign institution. The commenter did not provide further sources or show how it concluded that there would be a 5 percent decrease in non-U.S. advanced degree beneficiaries. The commenter asserting that employers have a shortage of workers at all levels also does not provide any sources. DHS reiterates that this rulemaking does not add new workers into the labor market, though it might shift from one pool of H–1B workers to another. Therefore, any hypothesized shortage of workers will not be alleviated by this final rule. Additionally, because the selection process typically involves a random lottery and there is substantial year-to-year variation in the composition of the pool of recipients of H–1B visas, DHS cannot reliably estimate how changing the order of selection may impact specific industries, such as those in medicine or education. Finally, DHS recognizes that there may be many industries, STEM included, in which a master's degree from a U.S. higher educational institution may not be required. However, DHS still believes that reversing the selection order best aligns with the Executive Order 13788 and congressional intent.

Comment: The rule received support from a trade association that argued an increase in master's students would allow its member companies to better meet their workforce needs. Similarly, a company argued an increase in master's students based on the reversed selection order of H–1B submissions would allow it to retain top talent and increase American competitiveness. An individual commenter and advocacy group suggested the proposed rule would increase the number of high skilled foreign-born workers and wages throughout the country. However, an advocacy group suggested USCIS work with the Department of Labor to further analyze the potential wage impact of the proposed rule.

Response: DHS appreciates the commenters' support and agrees that there is a probability for an increased number of selected beneficiaries who will have a master's or higher degree from a U.S. institution of higher education that may be selected under this new selection process. DHS agrees that the reversal of the selection process could help employers meet their workforce needs and help retain talent. DHS reiterates that it is changing the pool of workers to increase the probability of selecting H–1B beneficiaries with a master's degree from a U.S. institution. DHS also recognizes that there are potential wage increases for those that earn a master's degree compared to those with only a bachelor's degree. These comments are also in agreement with DHS' efforts to meet E.O. 13778 to help ensure that H–1B visas are awarded to the most-skilled or highest-paid petition beneficiaries.

4. Other Costs and Benefits of the Reversal of Selection Order

Comment: A commenter argued that the five-year average used by DHS to estimate the increased likelihood of selection of an H–1B cap subject petition with a master's degree or higher from a U.S. institution is incorrect. The commenter states that petitions for the advanced degree category increased over the past five years and will not decrease in any future year.

Response: DHS methodology uses a five-year historical average in its estimates of the impacted advanced degree exemption population because various factors outside of this rulemaking could result in either a decline or continued rise of petitions received. Therefore, DHS believes it is reasonable to use an average rather than forecast the number of master's beneficiaries in the future. Additionally, the commenter does not provide any data or data sources that are clear and verifiable, and therefore DHS is unable to comment on its validity. The commenter summarizes that the use of the five-year average for the reversal of the selection process does not comply with the Executive Order to hire the most-skilled or highest-paid petition beneficiaries. DHS clarifies that our analysis states that the probability of this increase could result in greater numbers of workers with advanced degrees from U.S. institutions of higher education entering the U.S. workforce under the H–1B program.

Comment: A commenter stated that the change will have the potential for unintended consequences that could occur if the proposed rule is enacted, as a change to one aspect of the higher education ecosystem rarely occurs in isolation. The commenter questioned how the proposal may impact the pool of individuals who have less than a master's degree as well as graduate degree holders from foreign higher education institutions.

Response: DHS believes that this final rule is likely to increase the probability that H–1B workers with a master's degree or higher from a U.S. institution of higher education would get selected during the new process in this final rule. DHS provides an explanation of this probability in the Executive Orders 12866 and 13563 sections of this final rule.

Comment: A commenter also questioned how the proposal would impact U.S. institutions who employ graduate degree holders from foreign institutions, many of whom currently serve as faculty or researchers on U.S. campuses.

Response: DHS believes that the commenter is referring to work performed by faculty or researchers at U.S. institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965, as amended). USCIS does not believe the final rule will impact foreign graduate degree holders that are employed at an U.S. institution of higher education since those petitioners are exempt from the H–1B cap under INA Section 214(g)(5)(A). Because such institutions are cap-exempt, they would not have to register before filing an H–1B petition to employ a specialty occupation worker at the U.S. institution of higher education.

Comment: A commenter stated that the change should be delayed until

proper research is done to understand the potential economic impact.

Response: DHS appreciates the commenter's concerns of the rule on the economy. However, DHS reiterates that it has considered the impact to the economy in both the NPRM and in the Executive Orders 12866 and 13563 sections of this final rule.

J. Public Comments and Responses to Paperwork Reduction Act

Comment: An attorney suggested that the estimated 5 to 7 hours to complete an H–1B petition is inaccurate, and the actual time requirement is double that figure. Another attorney suggested that in order to register only those individuals who would conceivably qualify for H–1B status, an initial preliminary analysis would need to be conducted by an attorney and that the work required for this results in a gross understatement of the paperwork burden.

Response: USCIS has published multiple information collection notices in the **Federal Register** as recently as 2016–2018 and received no comments on the estimated time burden per response for USCIS Form I–129. The current Form I–129 instructions indicate the breakdown of the time burden estimate that respondents for the H–1B process would spend on the submission of the form. Also, USCIS is not making any changes to the form or instructions that would require an adjustment to the estimated time burden per response. Based on USCIS review and analysis there is no change required to the estimated time burden per response for Form I–129, OMB Control Number 1615–0009. In response to the comment regarding analysis that an employer may choose to conduct to preliminarily determine whether the beneficiary may qualify for H–1B classification, USCIS has analyzed the work required to submit the limited amount of information collected for an H–1B registration through the H–1B registration tool and maintains that the estimated time burden per response reported for this information collection accurately reflects the process as presented. At this time, USCIS is retaining the current estimated time burden per response.

This rule did not propose changes to the time burden estimate for completing an H–1B petition, which is covered under the Form I–129 information collection, only to the estimated number of respondents to reflect an estimated smaller number of respondents in years in which the registration process will be in place. USCIS notes that the time burden estimate for the Form I–129 is an estimate based on the average amount of time it would take to complete the form. The instruments currently approved under the I–129 information collection that are relevant to this proposed rule, and their estimated time burdens, are: 2.34 hours for Form I–129, 2 hours for the H Classification Supplement, and 1 hour for the H–1B and H–1B1 Data Collection and Filing Fee Exemption Supplement. USCIS did not receive public comments on these time burden estimates during either.

K. Out of Scope

DHS received many comments that were unrelated to the proposed revisions regarding the electronic registration system and the cap selection process. Many of these comments would require Congressional action or additional regulatory action by DHS. Although DHS has summarized the comments it received below, DHS is not providing substantive responses to those comments as they are beyond the scope of this rulemaking. To the extent that comments are seeking further revisions to the H–1B program, DHS recognizes that additional regulatory changes could improve the H–1B program and intends to propose a separate rule to strengthen the H–1B visa classification. As stated in the Unified Agenda, DHS will propose to revise the definition of specialty occupation to increase focus on obtaining the best and the brightest foreign nationals via the H–1B program, and revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages. In addition, DHS will propose additional requirements designed to ensure employers pay appropriate wages to H–1B nonimmigrant workers.

Comments from the public outside the scope of this rulemaking concerned the following issues:

- Some commenters said that Congress should take further action to reform immigration law in a manner that addresses the ''core structural problems'' within the current immigration system. Some suggested USCIS explore reforms similar to the H–1B reform bills in congress that incentivize employers to hire skilled graduates and offer competitive wages.
- Commenters relayed concerns about the difficulty of hiring H–1B workers and the need for comprehensive immigration reform in order to acquire and retain top talent and fulfill business needs that are being unmet because there are not sufficient U.S. workers to meet their demands. Commenters suggested that the H–1B program helps U.S. companies and had a positive impact on wages for college graduates natives and non-college graduate natives.
- While some commenters acknowledge the need for this rule, they argued that more H–1B reform was necessary to ensure that U.S. workers were being protected and the H–1B visas were only being given to those beneficiaries who are the most skilled and the highest paid workers. They suggested that reform was necessary to prevent fraud and abuse in the H–1B system.
- Some commenters suggested priority should be given to petitioners who seek to hire guest-workers at the highest possible salary, and that DHS should raise the salary minimum for individuals to ensure the H–1B program isn't abused by overseas companies that underpay their employees.
- Some commenters made suggestions to improve other immigration programs, such as suggesting DHS make the F–1 visa dual intent, and that DHS review EB–1 and L–1/L–2 visa programs.
- One commenter suggested DHS streamline the review and the renewal of H–1B extension petitions and put forth additional proposals that support the goal to streamline the process of the H–1B program. Some commenters said Congress should raise the H–1B cap and make it responsive to market demands, particularly in the tech and start-up sector. One commenter said Congress should create an additional specialty occupation visa specifically for individuals working in IT fields.

Response: DHS appreciates these suggestions, however, DHS did not propose to address these issues in the proposed rule, therefore these suggestions fall outside of the scope of this rulemaking.

As discussed previously, with the exception of changes discussed in this final rule, DHS is finalizing this rule as proposed.

IV. Statutory and Regulatory Requirements

A. Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess the costs, benefits, and transfers of available 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information

and Regulatory Affairs has determined that this rule constitutes an ''economically significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has been reviewed by the Office of Information and Regulatory Affairs.

1. Summary

DHS is amending its regulations governing the process for filing H–1B cap petitions. Specifically, DHS is adding a registration requirement for petitioners seeking to file H–1B cap subject petitions on behalf of foreign workers. DHS will be suspending the registration requirement for the FY2020 H–1B cap in order to further test the system. DHS anticipates the registration requirement will be implemented starting with the FY 2021 H–1B cap. Additionally, DHS is changing the order in which H–1B cap-subject petitions will be selected towards the applicable projections needed to meet the annual H–1B allocations in order to increase the odds for selection for H–1B beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education.

All petitioners seeking to file an H–1B cap-subject petition will have to submit a registration, unless the registration requirement is suspended by USCIS consistent with this final rule. However, under the final registration process, when applicable, only those whose registrations are selected (termed ''selected registrant'' [13] for purposes of this analysis) will be eligible to file an H–1B cap-subject petition for those selected registrations and during the associated filing period. Therefore as selected registrants under the registration requirement, selected petitioners will incur additional opportunity costs of time to complete the electronic registration relative to the costs of completing and filing the associated H–1B petition, the latter costs being unchanged from the current H–1B petitioning process. Conversely, those who complete registrations that are unselected because of excess demand (termed ''unselected registrant'' for purposes of this analysis) will experience cost savings relative to the current process, as they will no longer have to complete an entire H–1B cap-subject petition that ultimately does not get selected for USCIS processing and adjudication as done by current unselected petitioners.

To estimate the costs of the registration requirement, when it is applicable, DHS compared the current costs associated with the H–1B petition process to the costs imposed by the additional registration requirement. DHS compared costs specifically for selected and unselected petitioners because the impact of the registration requirement to each population is not the same. Current costs to selected petitioners are the sum of filing fees associated with each H–1B cap-subject petition and the opportunity cost of time to complete all associated forms. Current costs to unselected petitioners are only the opportunity cost of time to complete forms and cost to mail the petition since USCIS returns the H–1B cap-subject petition and filing fees to unselected petitioners.

The opportunity cost of time associated with registration, when it is required, will be a cost to all petitioners (selected and unselected), but those whose registrations are not selected will be relieved from the opportunity cost associated with completing and mailing an entire H–1B cap-subject petition. Therefore, DHS estimates final costs of this rule to selected petitioners for completing an H–1B cap-subject petition as the sum of the registration costs and current costs. DHS estimates that the costs of this final rule to unselected petitioners will only result from the estimated opportunity costs associated with the registration requirement, when applicable. Overall, unselected petitioners will experience a cost savings relative to the current H–1B cap-subject petitioning process; DHS estimates these cost savings by subtracting new registration costs from current costs of preparing an H–1B cap-subject petition. These estimated quantitative cost savings will be a benefit that will accrue to only those with registrations that were not selected.

Currently, for selected petitioners the aggregate total costs to complete H–1B cap-subject petitions ranges from $132.9 million to $165.5 million, depending on who petitioners use to prepare petitions. These current costs to complete and file H–1B cap-subject petitions are based on a 5 year petition volume average and may differ across sets of fiscal years. Current costs are not changing for selected petitioners as a result of this registration requirement. Rather, this registration requirement will add a new opportunity cost of time to selected petitioners who will continue to face current H–1B cap-subject petition costs. DHS estimates the added aggregate opportunity cost of time to all selected petitioners under this registration requirement would range from $6.2 million to $10.3 million, again depending on who petitioners use to submit registrations and prepare petitions. Therefore, under the registration requirement, DHS estimates an adjusted total cost to complete H–1B cap-subject petitions will range from $134.7 million to $171.4 million. Since these petitioners already file Form I–129, only the registration costs of $6.2 million to $10.3 million are considered as new costs. Again, it is important to note that USCIS will be suspending the registration requirement for the FY 2020 cap season. DHS anticipates the impacts of the registration requirement will be realized when registration is required.

Unselected petitioners will experience an overall cost savings, despite new opportunity costs of time associated with the registration requirement. Currently for unselected petitioners, the total cost associated with the H–1B process is $53.5 million to $85.6 million, depending on who petitioners use to prepare the petition. The difference between total current costs for selected and unselected petitioners in an annual filing period consists of fees returned to unselected petitioners. DHS estimates the total costs to unselected petitioners from the registration requirement will range from $6.2 million to $10.1 million. DHS estimates a cost savings occurs because under the requirement unselected petitioners will avoid having to file entire H–1B cap-subject petitions and will have only had to submit registrations. Therefore, the difference between current costs and the new costs for unselected petitioners will represent a cost savings ranging from $47.3 million to $75.5 million, again depending on who petitioners use to submit the registration, when the registration is required.

The government will also benefit from the registration provision by no longer having to receive, handle and return large numbers of petitions that are currently rejected because of excess demand (unselected petitions). These activities will save DHS an estimated $1.6 million annually.[14] USCIS will, however, have to expend a total of $1,522,000 in the initial development of the registration website. This cost to the government is considered a one-time cost. DHS recognizes that there could be some additional unforeseen

[13] DHS notes that entities may submit multiple registrations which could result in a mix of selected and unselected outcomes. For the purpose of this analysis, the terms ''selected registrant'' and ''unselected registrant'' refer to the originator of a submission based on its outcome and should not be deemed a unilateral label for a single entity. Using this terminology it is possible for a single entity to experience impacts simultaneously as a selected registrant and as an unselected registrant.

[14] Although DHS does not estimate the impact of the proposed registration provision to DOL processes, DHS recognizes DOL may have some cost savings due to fewer LCA submissions.

development and maintenance costs or costs from refining the registration system in the future. However, DHS cannot predict what these costs would be at this time. Currently there are no additional costs for annual maintenance of the servers because the registration system will be run on existing servers. Since these costs are already incurred regardless of this rulemaking, DHS did not calculate additional costs.

The net quantitative impact of the new registration step, when it is required, is an aggregate cost savings to petitioners and to government ranging from $43.4 million to $62.7 million annually. Using lower bound figures, the net quantitative impact of this registration requirement is cost savings of $434.2 million over ten years. Discounted over ten years, these cost savings will be $381.2 million based on a discount rate of 3 percent and $325.7 million based on a discount rate of 7 percent. Using upper bound figures, the net quantitative impact of this registration requirement is cost savings of $626.8 million over ten years. Discounted over ten years, these cost savings will be $550.5 million based on a discount rate of 3 percent and $470.6 million based on a discount rate of 7 percent.

DHS notes that these overall cost savings result only in years when the demand for registrations and the subsequently filed petitions exceeds the number of available visas needed to meet the regular cap and advanced degree exemption allocation. For years where DHS has demand that is less than the number of available visas, this registration requirement will result in costs. For this final rule to result in net quantitative cost savings, at least 110,182 petitions (registrations and subsequently filed petitions under the final rule) will need to be received by USCIS based on lower bound cost estimates. For upper bound cost estimates, USCIS will need to receive at least 111,137 registrations and subsequently filed petitions for this rule to result in net quantitative cost savings.

The change to the petition selection process is likely to increase the probability that H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education will be selected. As a result, the probability of selecting H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education will increase by an estimated 16 percent (or 5,340 workers each year). This could result in greater numbers of highly educated workers with degrees from U.S. institutions of higher education entering the U.S. workforce under the H–1B program. If there is an increase in the number of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education, wage transfers may occur. These transfers would be borne by companies whose petitions, filed for beneficiaries who are not eligible for the advanced degree exemption (*e.g.* holders of bachelor's degrees and holders of advanced degrees from foreign institutions of higher education), might have been selected and ultimately approved but for the reversal of the selection order. DHS recognizes there could be a wage differential across industries, but due to the variance in the composition of the beneficiaries subject to the cap and their associated differences in educational level, whether any advanced degrees are from U.S. or foreign institutions of higher education, and the location of the ultimate job opportunity, DHS cannot reliably estimate the impact on wages under this final rule. Under an assumption that the change to the petition selection process resulted in 5,000 workers with an average fully loaded wage of at least $20,000 transferring from one market or industry to the other, then the rule will meet the $100 million threshold for economic significance.

Table 2 provides a detailed summary of the final changes and their impacts.

Table 2: Summary of Provisions and Impacts		
Current and Final Provisions	**Expected Cost of the Final Provision**	**Expected Benefit of the Final Provision**
Currently, all petitioners who file on behalf of an H-1B worker must complete and file H-1B cap-subject petitions along with a certified DOL Labor Condition Application (LCA). The total current cost for all selected petitioners to file and complete entire H-1B cap-subject petitions ranges from $132.9 million to $165.5 million. For unselected petitioners, the total current cost is $53.5 million to $85.6 million. The final rule requires all petitioners who seek to hire a cap-subject H-1B worker to register for each prospective H-1B worker for whom they seek to file a cap-subject H-1B petition, unless USCIS suspends the registration requirement. When registration is required, only those petitioners whose registrations are selected may proceed to complete and file an H-1B cap-subject petition.	**Petitioners -** • For current selected petitioners, the rule will add, when registration is required, an additional annual opportunity cost of time ranging from $6.2 million to $10.3 million, depending on who the petitioner uses to submit the registration. Therefore, the total costs of registering and completing and filing H-1B cap-subject petitions will range from $134.7 million to $171.4 million to this population annually, depending on the type of petition preparer. • For current unselected petitioners, when registration is required, they will experience an overall cost savings, though the final rule would add an opportunity cost of time ranging from $6.2 million to $10.1 million to this population annually, depending on who petitioners use to submit the registration. **Government -** • The final rule will cost the government about $1.5 million to initially develop the registration website. This cost to the	**Petitioners -** • Petitioners whose registrations are not selected, when registration is required, will have cost savings ranging from $47.3 million to $75.5 million from no longer having to complete and file H-1B cap-subject petitions along with mailing costs despite new opportunity cost of time to submit registration **Government -** • USCIS will save $1.6 million annually in processing and return shipping costs, when registration is required, as fewer petitions will be filed with USCIS based on registrations that were not selected.

	government is considered a one-time cost. Annual maintenance, including running the registration website servers and the labor costs associated with server maintenance, are reported as negligible. DHS recognizes that there could be some additional unforeseen development and maintenance costs or costs from refining the registration system in the future. However, DHS cannot predict what these costs would be at this time and thus cannot estimate these costs. Currently there are no additional costs for annual maintenance of the servers because the registration system will be run on existing servers. Since these costs are already incurred regardless of this rulemaking, DHS did not estimate any costs for maintenance.	
Under the current H-1B selection process, if the regular cap and advanced degree exemption are reached during the first five business days that cap-subject petitions can be filed, USCIS randomly selects sufficient H-1B petitions to reach the H-1B 20,000 advanced degree exemption first. Then, USCIS randomly selects sufficient H-1B petitions from the remaining pool of beneficiaries, including	**Petitioners -** • The selection process under this final rule could decrease the number of cap-subject H-1B petitions for beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities, or foreign advanced degrees by up to 5,340 workers. This potential decrease could result in some higher labor costs to petitioners assuming that	**Petitioners and Government** • The selection process could increase the number of cap-subject H-1B petitions that are selected for beneficiaries with master's degrees or higher from U.S. institutions of higher education by an estimated 16 percent (or 5,340 workers annually). DHS believes the increase in the number of H-1B beneficiaries with a master's degree or higher from a U.S. institution of

those not selected in the advanced degree exemption, to reach the H-1B 65,000 regular cap limit. USCIS rejects all remaining unselected H-1B cap-subject petitions. This final rule reverses the selection process so that USCIS will randomly select registrations (petitions if the registration requirement is suspended) for the H-1B regular cap first, including registrations for petitions eligible for the H-1B advanced degree exemption. Then USCIS will randomly select registrations for the H-1B advanced degree exemption.	beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities or foreign advanced degrees are paid less than and replaced by beneficiaries with master's degrees from U.S. institutions of higher education. • DHS does not anticipate, as a result of the new selection process, petitioning employers will suffer economic harm from the decreased probability of selecting H-1B petitions eligible only under regular cap.	higher education will likely result in more highly educated workers entering the U.S. workforce. This could benefit the U.S. economy if those workers have a higher net value to the economy than the H-1B workers that they replace.

As discussed previously in the preamble, this rule will also allow for the H–1B regular cap and advanced degree exemption selections to take place in the event that the registration system is inoperable for any reason and needs to be suspended. If temporary suspension of the registration system is necessary, then the cost and benefits described in this analysis resulting from registration for the petitioners and government will not apply during any period of temporary suspension. However, this selection reversal process will still take place and is anticipated to yield a higher proportion of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education being selected.

2. Background and Purpose of the Final Rule

The H–1B program allows U.S. employers to temporarily employ foreign workers in occupations that require the theoretical and practical application of a body of highly specialized knowledge and a bachelor's degree or higher in the specific specialty or its equivalent. As the preamble explains, Congress limits the number of H–1B visas to 65,000 new visas annually (''regular cap''), with certain exemptions including a limited exemption for beneficiaries who have earned a master's or higher degree from a U.S. institution of higher education.[15] The annual exemption from the 65,000 cap for H–1B beneficiaries who have earned a qualifying U.S. master's or higher degree is limited to 20,000 beneficiaries (''advanced degree exemption'').[16]

Currently, when an employer wants to hire an H–1B worker who is subject to the regular cap or advanced degree exemption, the petitioner must first obtain a certified Labor Condition Application (LCA) from the U.S. Department of Labor (DOL) and then complete and file a Petition for a Nonimmigrant Worker (Form I–129) with USCIS during the H–1B cap filing period. The first day on which petitioners may file H–1B petitions can be as early as 6 months ahead of the projected employment start date.[17] For example, a U.S. employer seeking an H–1B beneficiary for a job beginning October 1 (the first day of the next fiscal year) can file an H–1B petition no earlier than April 1 of the current fiscal year. Thus, an H–1B employer requesting a beneficiary for the first day of Fiscal Year (FY) 2020, October 1, 2019, would be allowed to file an H–1B petition as early as April 1, 2019. Therefore, the cap filing period begins on or shortly after April 1 each year and generally ends when USCIS has received enough petitions projected as needed to fill the H–1B numerical limitations.

Each year USCIS monitors the number of H–1B cap-subject petitions it receives at its Service Centers. When USCIS determines that it has received a sufficient number of petitions projected as needed to reach the H–1B allocations, it announces on its website the final receipt date on which petitioners may file an H–1B cap-subject petition for that fiscal year.[18] USCIS then may randomly select from the cap-subject petitions received on the final receipt date the number of petitions projected as needed to reach the H–1B allocations. If the final receipt date falls on any of the first five business days on which cap petitions may be filed, USCIS randomly selects the requisite number of petitions from among all petitions received on any of those five business days.[19] USCIS rejects all H–1B cap-subject petitions received after the final receipt date.[20]

Each year, to administer the H–1B cap and advanced degree exemption, USCIS expends resources towards opening and sorting mail, identifying properly filed

[15] *See* INA section 214(g)(1) and (g)(5), 8 U.S.C. 1184(g)(1) and (g)(5).

[16] *Id.*

[17] *See* 8 CFR 214.2(h)(9)(i)(B).

[18] *See* 8 CFR 214.2(h)(8)(ii)(B).

[19] *Id.*

[20] *See* 8 CFR 214.2(h)(8)(ii)(D).

petitions, and removing duplicate petitions before proceeding with the petition selection process. In years of high petition volume, these duties present operational challenges for USCIS, including greater labor needs and limited space at Service Centers where petitions are stored, sorted, and selected.

Once the petitions have been sorted and assigned a case identification number, if USCIS determines that a lottery should be conducted, USCIS randomly selects a certain number of H–1B cap-subject petitions projected as needed to meet the numerical limitation. USCIS makes projections on the number of H–1B cap-subject petitions necessary to meet the numerical limit, taking into account historical data related to approvals, denials, revocations, and other relevant factors.[21] USCIS uses these projections to determine the number of petitions to select to meet, but not exceed, the 65,000 regular cap and 20,000 advanced degree exemption, although the exact percentage and number of petitions may vary depending on the applicable projections for a particular fiscal year. USCIS begins the H–1B cap and advanced degree selection process by first randomly selecting petitions that will apply to the projections needed to reach the 20,000 advanced degree exemption.[22] Once the selection process for the 20,000 advanced degree exemption is complete, USCIS then randomly selects petitions that apply to the projections needed to reach the 65,000 regular cap limit. USCIS then rejects all remaining H–1B petitions and returns the petition and associated fees to the petitioners. For petitions selected during the selection process, USCIS enters petition information into its database and notifies the petitioner of their selection, which includes receipting and depositing associated petition fees.

3. Changes Made by This Final Rule

DHS is establishing a mandatory electronic registration requirement that will address some of the current operational challenges associated with the H–1B cap-subject petition process. The electronic registration, unless suspended by USCIS consistent with this final rule, will commence before the H–1B cap filing season, which currently begins on April 1 each year (or the next business day if April 1 falls on Saturday, Sunday or a legal holiday). This rule will require petitioners to create an account and electronically register through the USCIS website each prospective H–1B worker on whose behalf the petitioner seeks to file an H–1B cap-subject petition. DHS estimates that each unique account creation by a petitioner will take 0.17 hours and each electronic registration for a unique beneficiary will take 0.5 hours to complete.[23] DHS describes in further detail how the electronic registration process will work in the preamble of the Notice of Proposed Rulemaking (83 FR 62406).

Only those with a selected registration will be eligible to submit an associated H–1B cap-subject petition on behalf of a cap-subject H–1B worker to USCIS. As described previously in the preamble of the Notice of Proposed Rulemaking (83 FR 62406), registrants will receive notification of selection and could then proceed to obtaining a certified LCA from DOL and afterward proceed to preparing and filing H–1B cap-subject petitions with USCIS. Those with registrations that are not selected will not have to complete and file H–1B cap-subject petitions for the H–1B cap-subject worker named in the unselected registration, as they will be ineligible to file an H–1B cap-subject petition for that beneficiary in that fiscal year.

Additionally, DHS is changing the H–1B random selection process to increase the probability that H–1B visas will be issued, or status otherwise provided, to beneficiaries with master's degrees or higher from U.S. institutions of higher education. DHS is changing the H–1B selection process by first selecting H–1B registrations towards the projected number of petitions needed to meet the 65,000 regular cap limit, which will include all cap-subject beneficiaries, including those with a master's degree or higher from a U.S. institution of higher education. Then USCIS will select registrations that are eligible for the 20,000 advanced degree exemption, which are those with master's degrees or higher from U.S. institutions of higher education, towards the projected number needed to reach the advanced degree exemption. This process will allow those petitions with beneficiaries who have a master's degree or higher from U.S. institutions of higher education a greater chance to be selected.

4. Population

The population impacted by this rule includes those petitioners who file on behalf of H–1B cap-subject beneficiaries (*i.e.* beneficiaries who will be subject to the regular cap, and beneficiaries on whose behalf an H–1B petition asserting an advanced degree exemption will be filed). These petitioning entities are typically referred to as H–1B petitioners in DHS regulations and in this preamble. When discussing the registration requirements, DHS refers to this same population as both registrants and petitioners for purposes of this analysis. Those terms refer to the same petitioning entities in the H–1B process.

a. Estimated Population Impacted by Registration Requirement

In order to estimate the population impacted by the registration requirement, DHS uses historical filing data of H–1B cap-subject petitioners. These petitioners complete and file Form I–129. Petitioners may also choose or be required to complete and file the following USCIS forms:

- Request for Premium Processing Service (Form I–907), if seeking expedited petition processing, and/or
- Notice of Entry of Appearance as Attorney or Accredited Representative (Form G–28), if the petition is completed and filed by a lawyer or accredited representative.

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[21] *See* 8 CFR 214.2(h)(8)(ii)(B).

[22] *Id.*

[23] DHS assumes petitioners would not need to expend additional funds to procure computer equipment or acquire internet connections since DOL already requires employers to electronically file Labor Condition Applications (LCAs), and an approved LCA is a requisite for requesting an H–1B employee. This assumption was made in the 2011 proposed rule, ''Registration Requirement for Petitioners Seeking to File H–1B Petitions on Behalf of Aliens Subject to the Numerical Limitations'' and USCIS received no comments regarding this assumption.

Table 3 shows historical filings of Form I-129 for H-1B cap-subject petitions.

Table 3: H-1B Cap-Subject Petitions Received by USCIS, FY 2013-2017.

Fiscal Year	Total Number of H-1B Cap-Subject Petitions Filed	Total Number of Selected Petitions		
		Number of Forms I-129 Petitions Randomly Selected	Number of Petitions Filed with Form I-907	Number of Petitions Filed with Form G-28
2013	124,130	98,318	24,731	72,959
2014	172,581	98,034	25,860	74,424
2015	232,973	97,714	26,502	71,959
2016	236,444	95,622	30,622	68,503
2017	198,460	96,301	12,324	78,517
5-year average	192,918	97,198	24,008	73,272

Source: Total Number of H-1B Cap-Subject Petitions Filed FY 2013-2017, USCIS Service Center Operations (SCOPS), June, 2017. Total Number of Selected Petitions data, USCIS Office of Performance and Qualify (OPQ), Performance Analysis and External Reporting (PAER), January 2018.

[a] Premium processing service was suspended during FY 17 until September. The FY 17 count for premium processing requests (12,324 Form I-907) does not reflect requests accepted initially with Form I-129 during the suspension, rather it reflects premium processing requests received after the suspension was lifted for any pending petitions. This is because from September onward, petitioners could submit premium processing requests for petitions with a pending status.

In FY 2017, USCIS received 198,460 H–1B petitions in the first five days that cap-subject petitions could be filed, a 16 percent [24] decline in H–1B cap-subject petitions from FY 2016. Though the receipt of H–1B cap-subject petitions fell in FY 2017, the petitions received still far exceeded the numerical limitations, continuing a trend of excess demand since FY 2010.[25] DHS uses the five-year average of H–1B cap-subject petitions received from FY 2013 to FY 2017 (192,918) as the estimate of H–1B cap-subject petitions that will be received annually. DHS uses the historical five-year average of 192,918 as seen in Table 3 as a reasonable proxy for the number of registrations that will be submitted in an annual filing period. DHS recognizes that the use of this historical average does not include the possibility that the registration's lower barrier to entry will result in an increase in the number of registrations. Currently, DHS does not have data to estimate the likelihood of that occurrence. As discussed previously, this rule incorporates measures to minimize the number of petitioners who might try to flood the registration system in order to increase the chances of their petition being selected. Nevertheless, if these mitigation measures are not fully successful, the estimates based on historical averages may underestimate the actual numbers of registrations, and thus underestimate the costs of the rule. In addition to possible increases in fraudulent registations, the lower initial cost of registration may induce an increase in the number of legitimate registrations. This, too, will increase the cost of the regulation, but USCIS was unable to estimate the likely increase in registrations and associated costs .

Table 3 also shows historical filings for Form I–907 and Form G–28 that

[24] Calculation: (236,444 FY16 H–1B cap-subject petitions − 198,460 FY17 H–1B cap-subject petitions)/236,444 Form I–129 petitions = 16 percent (rounded).

[25] For H–1B filing petitions data prior to FY 2013, *see* USCIS Reports and Studies, retrieved at *https://www.uscis.gov/tools/reports-studies/reports-and-studies.* Visited March 3, 2018.

accompanied selected H–1B cap-subject petitions. DHS uses this data to obtain the numbers of H–1B cap-subject petitions that are filed with a Form I–907 and/or Form G–28. DHS notes that these forms are not mutually exclusive. Based on the five-year average, DHS estimates 25 percent [26] of selected petitions will include Form I–907 and 75 percent [27] of selected petitions will include Form G–28. Based on operational resource considerations, USCIS has announced temporary suspensions of the premium processing service in the past.[28] For the purposes of this analysis, DHS assumes that Form I–907 will not be suspended and includes eligibility for petitioners to voluntarily incur such costs in both the baseline and costs analysis.

Table 4 summarizes the population under the current filing process for selected petitions versus unselected petitions because the impact of the registration requirement is not the same for selected and unselected petitioners. DHS estimates 95,720 unselected petitions by subtracting selected petitions from the total petitions filed.[29] DHS also distinguishes the number of petitions with premium processing fees (Form I–907) and the number of petitions filed by a lawyer or other accredited representative (Form G–28). Historical filings for Form I–907 and Form G–28 that accompanied selected petitions were estimated to be 25 percent and 75 percent respectively. DHS reasonably applies those percentages to the number of total petitions and estimates 47,651 [30] Form I–907 and 145,431 [31] Form G–28 were submitted with total petitions filed. Since DHS uses the five-year average of total petitions received (192,918) as the estimate of petitions that will be received annually, DHS also assumes the five-year average of Form I–907 (24,008) and Form G–28 (73,272) that accompany selected petitions is a reasonable annual estimate for each form. For unselected petitions, DHS estimates 23,643 [32] Form I–907 and 72,158 [33] Form G–28 by subtracting the estimated selected petitions from estimated total petitions.

Table 4: Annual Population of the H-1B Filing Process (Based on 5 Year Average).

Registrations			
Not Applicable			
Petitions			
	Total Petitions Filed	**Selected Petitions**	**Unselected Petitions**
Form I-129	192,918	97,198	95,720
Form I-907	47,651	24,008	23,643
Form G-28	145,431	73,272	72,158
Source: USCIS analysis.			

[26] Calculation: 24,008 Form I–907/97,198 Form I–129 petitions = 25 percent (rounded).

[27] Calculation: 73,272 Forms G–28/97,198 Form I–129 petitions = 75 percent (rounded).

[28] DHS notes USCIS temporarily suspended premium processing of all H–1B petitions on March 20, 2018. USCIS News Releases. ''USCIS Will Temporarily Suspend Premium Processing for Fiscal Year 2019 H–1B Cap Petitions.'' March 3, 2017. *https://www.uscis.gov/news/alerts/uscis-will-temporarily-suspend-premium-processing-fiscal-year-2019-h-1b-cap-petitions.* Visited April 13, 2018.

[29] Calculation: 192,918 total petitions filed − 97,198 selected petitions = 95,720 unselected petitions.

[30] Calculation: 192,918 * 25 percent = 47,651 Form I–907.

[31] Calculation: 192,918 * 75 percent = 145,431 Form G–28.

[32] Calculation: 47,651 Forms I–907– 24,008 Forms I–907 = 23,643 Forms I–907 received with unselected petitions.

[33] Calculation: 145,431 Forms G–28 − 73,272 Forms G–28 = 72,158 Forms G–28 received with unselected petitions.

Table 5: Estimated Annual Population Under the Registration Requirement.

Registrations			
	Total Registrations Filed	**Selected Registrations**	**Unselected Registrations**
	192,918	97,198	95,720
Petitions			
	Total Forms Filed	**Selected Petitions**	**Unselected Petitions**
Form I-129	97,198	97,198	0
Form I-907	24,008	24,008	0
Form G-28*	73,272	73,272	0

Source: USCIS analysis.

*Refers specifically to Form G-28 submitted with a Form I-129 petition. DHS notes that under the registration requirement, accredited representatives will be required to upload Form G-28 during registration and provides more detail later on in this analysis.

Table 5 presents populations DHS anticipates for the registration process based on comparable historical data from Table 4. DHS assumes the historical five-year average of 192,918 (Table 4) as a reasonable estimate for the number of total registrations that will be submitted in an annual filing period.[34] DHS also assumes that the historical five-year averages of selected and unselected petitions will be a reasonable estimate for the total number of registrations that are selected and not selected.

DHS estimates that 192,918 H–1B cap-subject registrations will be submitted annually and USCIS will select 97,198 registrations. Those with selected registrations will then be eligible to file, during an associated filing period, the H–1B cap-subject petition on behalf of the specific beneficiary named in the selected registration for that fiscal year. Therefore, DHS assumes under the registration process, 97,198 petitions will result from the 97,198 selected registrants. Of the petitions resulting from selected registrations, DHS anticipates 24,008 (25 percent) petitions will include premium processing (Form I–907) and 73,272 (75 percent) petitions will include representation by a lawyer or accredited representative (Form G–28).[35] Those registrants who are not selected will not be eligible to file an H–1B cap-subject petition and therefore DHS does not estimate any petition volume for unselected registrations under the registration requirement.

b. Estimated Population Impacted by the Selection Process

i. Selected Advanced Degree Exemption Petitions in the Current Selection Process

As discussed in section 4, DHS uses historical filing data of H–1B cap-subject petitions to estimate future registration populations. Table 6 shows historical filing data for H–1B cap-subject petitions categorized by regular cap and advanced degree exemption receipts. USCIS received an annual average of 192,918 H–1B cap-subject petitions. DHS calculates 71 percent[36] of petitions (137,017) were filed under the regular cap and 29 percent[37] of petitions (55,900) were filed under the advanced degree exemption. Therefore, DHS estimates that USCIS will receive a total of 192,918 registrations annually consisting of 137,017 registrations under the regular cap and 55,900 registrations under the advanced degree exemption.

[34] DHS acknowledges the possibility that certain employers who currently decide against filing an H–1B petition may choose to file a registration under this final rule since the cost is much less. However, at this time DHS is not able to forecast this scenario with statistical validity. Therefore, for this purpose of this analysis DHS has estimated the registration population that would parallel the current petitioner population.

[35] Based on the five-year averages from Table 3, DHS estimates 24 percent of selected petitions would include Form I–907 and 76 percent of selected petitions would include Form G–28.

[36] Calculation: 137,017 regular/192,918 Form I–129 petitions * 100 = 71 percent (rounded).

[37] Calculation: 55,900 advanced degree/192,918 Form I–129 petitions * 100 = 29 percent (rounded).

Table 6: H-1B Petitions Received by Regular Cap and Advanced Degree Exemption, FY 2013 - 2017.

Fiscal Year	Number of All Petitions Filed	Number of Petitions Received (Regular Cap)	Number of Petitions Received (Advanced Degree Exemption)
2013	124,130	93,489	30,641
2014	172,581	132,063	40,518
2015	232,973	182,249	50,724
2016	236,444	166,206	70,238
2017	198,460	111,080	87,380
5-year average	**192,918**	**137,017**	**55,900**

Source: USCIS Service Center Operations (SCOPS), June, 2017.

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Additionally, DHS uses 55,900 petitions in this analysis as a volume estimate of beneficiaries who have a master's degree or higher from a U.S. institution of higher education. Anecdotal evidence suggests that very few petitions incorrectly identify whether the beneficiary has a qualifying degree such that they may be eligible for the advanced degree exemption. As such, we believe this is a reliable estimate.

Under the current process, when the number of cap-subject petitions filed with USCIS during the first five days that such petitions may be filed exceeds the numerical limits, a certain number of petitions projected as needed to meet the 20,000 advanced degree exemption are randomly selected first from the 55,900 advanced degree petitions eligible for the advanced degree exemption.[38] Of the remaining 172,918 petitions, 35,900 (21 percent) of H–1B beneficiaries with a master's degree or higher from a U.S. institution of higher education remain in the pool to be selected in the 65,000 regular cap limit.[39] Then, USCIS randomly selects a certain number of petitions projected as needed to meet the 65,000 regular cap limit from the remaining pool, which includes H–1B beneficiaries with bachelor's degrees and beneficiaries with a master's or higher degree from a U.S. institution of higher education not selected under the advanced degree exemption. DHS estimates that an additional 13,495 petitions otherwise eligible for the advanced degree exemption but not selected under the advanced degree exemption would be randomly selected in the regular cap.[40] Therefore, USCIS currently selects an estimated total of 33,495 petitions filed for beneficiaries with a master's or higher degree from a U.S. institution of higher education, which accounts for 17 percent of the 192,918 Form I–129 petitions.[41]

ii. Selected Advanced Degree Exemption Petitions in the New Selection Process

Under the new change to the H–1B cap-subject selection process, those seeking to file an H–1B cap-subject petition will have to submit an electronic registration for each beneficiary, unless the registration requirement is suspended. Only those with selected registrations will be eligible to file an H–1B cap-subject petition during an associated filing period for that fiscal year. As previously stated, DHS continues to assume 192,918 registrations will be received annually. Under the new selection process, when registration is required, USCIS would first select a certain number of registrations projected as needed to meet the 65,000 regular cap limit from the 192,918 registrations. All 55,900 H–1B beneficiaries with a master's or higher degree from a U.S. institution of higher education (29 percent) will therefore be included in the pool for selection. DHS estimates that up to 18,835 advanced degree registrations that could be selected during the selection for the regular cap.[42]

[38] DHS uses the mandated numerical limitations (65,000 for regular cap and 20,000 for advanced degree exemption) to demonstrate the statistical validity in the descriptions of selected advanced degree petitions in the current and new selection process.

[39] Calculation: 192,918 Form I–129 H–1B cap-subject petitions − 20,000 advanced degree = 172,918 advanced degree and regular; Calculation: 55,900 advanced degree − 20,000 advanced degree = 35,900 advanced degree; Calculation: 35,900 advanced degree/172,918 Form I–129 H–1B cap-subject petitions * 100 = 21 percent (rounded).

[40] Calculation: 65,000 regular cap limit * 21 percent = 13,495 advanced degree petitions.

[41] Calculation: 33,495 advanced degree/192,918 Form I–129 H–1B cap-subject petitions * 100 = 17 percent (rounded).

[42] Calculation: 65,000 regular cap limit * 29 percent = 18,835 advanced degree petitions.

Next, USCIS will select a certain number of registrations projected to meet the 20,000 advanced degree exemption from the remaining pool of 37,065 advanced degree registrations.[43] In total, USCIS is likely to select an estimated 38,835 registrations for petitioners seeking to file H–1B petitions under the advanced degree exemption.[44] These registrations account for 20 percent of the 192,918 registrations.[45] Therefore, DHS estimates USCIS could accept up to 5,340 (or 16 percent) [46] more H–1B cap-subject petitions annually for beneficiaries with a master's or higher degree from a U.S. institution of higher education.[47]

In years when the registration requirement is suspended, the same result will occur from the reversal of the cap selection process, however USCIS would be selecting petitions rather than registrations.

5. Costs

DHS estimates costs specifically for selected and unselected petitioners between the current H–1B petition process and the new registration environment because the impact for each population is different. Current costs to selected petitioners are an aggregate of filing fees associated with each H–1B cap-subject petition, mailing cost, and the opportunity cost of time to complete all associated forms. Current costs to unselected petitioners are just the opportunity cost of time to complete forms and mail the petition since USCIS returns the H–1B cap-subject petition and filing fees to unselected petitioners. The only difference between total current costs for selected and unselected petitioners in an annual filing period consists of fees returned to unselected petitioners.

The new registration requirement will impose additional opportunity costs of time to all petitioners to complete the required registration, but relieve petitioners with unselected registrations from the opportunity cost associated with completing an entire H–1B cap-subject petition. Therefore petitioners with selected registrations will face an additional cost and petitioners with unselected registrations will experience cost savings. Specifically, petitioners with selected registrations will face an additional opportunity cost of time to complete the required registration, as well as the current filing fees and opportunity costs of time to complete and file H–1B cap-subject petitions. Petitioners with unselected registrations will only experience the opportunity cost of time to complete the required registration.

The government will incur costs associated with developing and maintaining the electronic registration system on its website. Petitioners may also incur costs associated with the registration selection process that will increase the number of H–1B beneficiaries with a master's or higher degree from a U.S. institution of higher education in the form of higher salaries that might be paid to beneficiaries with advanced degrees from a U.S. institution of higher education. In order to determine the costs and cost savings of this rule, DHS first estimates the current costs of completing and filing an H–1B petition.

a. Current Costs To Complete and File Form I–129 Petitions

Currently, an employer seeking to file a petition on behalf of an H–1B worker must complete and file Form I–129. Form I–129 is estimated to take 2.26 hours to complete per petition and includes a filing fee of $460.[48] Filing the Form I–129 petition includes the H Classification supplement and the H–1B and H–1B1 Data Collection and Filing Fee Exemption Supplement, which are estimated to take 2 hours and 1 hour per supplement to complete, respectively. Therefore, it is estimated to take a total of 5.26 hours to complete and file Form I–129. Petitioners may also choose or be required to complete the following forms:

- Form I–907 is estimated to take 0.5 hours to complete with a filing fee of $1,410, and/or
- Form G–28 is estimated to take 0.88 hours to complete and does not have a fee.

In order to estimate the opportunity costs of time in completing and filing Form I–129, and if necessary, Form I–907 or Form G–28, DHS assumes that a petitioner will use a human resources (HR) specialist, an in-house lawyer, or an outsourced lawyer to prepare Form I–129 petitions.[49] DHS uses the historical filings of Forms I–907 and Forms G–28 submitted with H–1B petitions to estimate the distribution of form submissions amongst type of petition preparer.

In section 4 of this analysis, DHS estimates that 75 percent of H–1B petitions were completed and filed by lawyers or other accredited representatives based on the submissions of Forms G–28. Table 4 presents the total number of Form G–28 accompanying total petitions, selected petitions and unselected petitions. DHS reasonably assumes the total number of Form G–28 represents the number of H–1B petitions that were completed and filed by lawyers or other accredited representatives and presents this in Table 7. DHS estimates the remaining petitions are completed and filed by HR specialists or other equivalent occupation. DHS estimates of total petitions filed, 47,487 [50] petitions were filed by HR specialists or other equivalent occupation. Of selected petitions, DHS estimates 23,926 [51] petitions were filed by HR specialists or other equivalent occupation. Of unselected petitions, DHS estimates 23,562 [52] petitions were filed by HR specialists or other equivalent occupation. Table 7 summarizes the estimated population of H–1B petition submissions based on the type of petition preparer.

[43] Calculation: 55,900 advanced degree − 18,835 advanced degree = 37,065 advanced degree.

[44] Calculation: 18,835 selected advanced degree petitions + 20,000 advanced degree petitions = 38,835 total advanced degree petitions selected.

[45] Calculation: 38,835 advanced degree petitions/192,918 registrations = 20 percent (rounded).

[46] Calculation: (38,835 (new advanced degree petitions) − 33,495 (current advanced degree petitions))/33,495 (current advanced degree petitions) * 100 = 16 percent.

[47] Calculation: 38,835 new advanced degree petitions − 33,495 current advanced degree petitions = 5,340 additional petitions.

[48] DHS recognizes there are other fees associated with an H–1B petition, such as the ACWIA Fee, the Fraud Fee and Public Law 114–113 fee. These fees generally vary depending on the size of the petitioning entity. Therefore, DHS has not specifically included these fees in the calculations of H–1B cap-subject petitions though DHS acknowledges these fees are statutorily required.

[49] USCIS limited its analysis to HR specialists, in-house lawyers, and outsourced lawyers to present estimated costs. However, USCIS understands that not all entities employ individuals with these occupations and, therefore, recognizes equivalent occupations may also prepare and file these petitions.

[50] Calculation: 192,918 − 145,431 = 47,487 petitions prepared by HR specialists.

[51] Calculation: 97,198 − 73,272 = 23,926 selected petitions prepared by HR specialists.

[52] Calculation: 95,720 − 72,158 = 23,562 unselected petitions prepared by HR specialists.

Table 7: Summary of the Population of H-1B Petition Submissions Based on Preparer Type.			
Type of Preparer	**Total Filed**	**Selected Petitions**	**Unselected Petitions**
All H-1B petitions	192,918	97,198	95,720
H-1B petitions filed by lawyers or accredited representatives	145,431	73,272	72,159
H-1B petitions filed by HR specialists or other equivalent occupation	47,487	23,926	23,562
Source: USCIS analysis.			

The relevant wage is currently $31.84 [53] per hour for an HR specialist and $68.22 [54] per hour for an in-house lawyer. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the Department of Labor, BLS report detailing the average employer costs for employee compensation for all civilian workers in major occupational groups and industries. DHS estimates that the benefits-to-wage multiplier is 1.46 and, therefore, is able to estimate the full opportunity cost per applicant, including employee wages and salaries and the full cost of benefits such as paid leave, insurance, and retirement.[55] DHS multiplied the average hourly U.S. wage rate for HR specialists and lawyers by 1.46 to account for the full cost of employee benefits, for a total of $46.49 [56] per hour for an HR specialist and $99.60 [57] per hour for an in-house lawyer. DHS recognizes that a firm may choose, but is not required, to outsource the preparation of these petitions and, therefore, has presented two wage rates for lawyers. To determine the full opportunity costs if a firm hired an outsourced lawyer, DHS multiplied the average hourly U.S. wage rate for lawyers by 2.5 for a total of $170.55 [58] to approximate an hourly billing rate for an outsourced lawyer.[59]

Based on the time burden and relevant wages, the total opportunity costs of time to complete Form I–129 is $244.52 per petition [60] and for Form I–907 is $23.24 [61] per petition if an HR specialist files. Although USCIS only requires petitioners to file Form I–129 and supplemental forms on behalf of an H–1B worker, DHS includes the opportunity cost of time for Form I–907 since some petitioners may file for premium processing. The opportunity cost of time for an in-house lawyer to complete Form I–129 is $523.90,[62] Form I–907 is $49.80,[63] and Form G–28 is $87.65.[64] The opportunity cost of time for an outsourced lawyer to complete Form I–129 is $897.09,[65] Form I–907 is $85.28,[66] and Form G–28 is $150.08.[67] DHS assumes that only Form I–129 petitions completed by in-house lawyers and outsourced lawyers would also complete Form G–28.

[53] Bureau of Labor Statistics, U.S. Department of Labor, ''Occupational Employment Statistics, May 2017, Human Resources Specialist'': *https://www.bls.gov/oes/2017/may/oes131071.htm.* Visited April 13, 2018.

[54] Bureau of Labor Statistics, U.S. Department of Labor, ''Occupational Employment Statistics, May 2017, Lawyers'': *https://www.bls.gov/oes/2017/may/oes231011.htm.* Visited April 13, 2018.

[55] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour)/(Wages and Salaries per hour). *See* Economic News Release, U.S. Dep't of Labor, Bureau of Labor Statistics, Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group (December 2017), available at *https://www.bls.gov/news.release/archives/ecec_03202018.pdf* (viewed April 2018). The ECEC measures the average cost to employers for wages and salaries and benefits per employee hour worked.

[56] Calculation: $31.84 * 1.46 = $46.49 total wage rate for HR specialist.

[57] Calculation: $68.22 * 1.46 = $99.60 total wage rate for in-house lawyer.

[58] Calculation: $68.22 * 2.5 = $170.55 total wage rate for an outsourced lawyer.

[59] The DHS analysis in, ''Exercise of Time-Limited Authority To Increase the Fiscal Year 2018 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program'' (May 31, 2018), available at *https://www.federalregister.gov/documents/2018/05/31/2018-11732/exercise-of-time-limited-authority-to-increase-the-fiscal-year-2018-numerical-limitation-for-the,* used a multiplier of 2.5 to convert in-house attorney wages to the cost of outsourced attorney wages. DHS believes the methodology used in the Final Small Entity Impact Analysis remains sound for using 2.5 as a multiplier for outsourced labor wages in this rule.

[60] Calculation: $46.49 (HR wage) * 5.26 hours (time to complete Form I–129) = $244.52.

[61] Calculation: $46.49 (HR wage) * 0.5 hour (time to complete Form I–907) = $23.24.

[62] Calculation: $99.60 (in-house lawyer wage) * 5.26 hours (time to complete Form I–129) = $523.90.

[63] Calculation: $99.60 (in-house lawyer wage) * 0.5 hour (time to complete Form I–907) = $49.80.

[64] Calculation: $99.60 (in-house lawyer wage) * 0.88 hour (time to complete Form G–28) = $87.65.

[65] Calculation: $170.55 (outsourced lawyer wage) * 5.26 hours (time to complete Form I–129) = $897.09.

[66] Calculation: $170.55 (outsourced lawyer wage) * 0.5 hour (time to complete Form I–907) = $85.28.

[67] Calculation: $170.55 (outsourced lawyer wage) * 0.88 hour (time to complete Form G–28) = $150.08.

Based on the calculated opportunity costs of time, the total cost to complete and file Form I–129 is $704.52[68] and Form I–907 is $1,433.24[69] if an HR specialist files. The total cost to complete and file Form I–129 is $983.90,[70] Form I–907 is $1,459.80,[71] and Form G–28 is $87.65 if an in-house lawyer files. The total cost to complete and file Form I–129 is $1,357.09,[72] Form I–907 is $1,495.28,[73] and Form G–28 is $150.08 if an outsourced lawyer files.

Table 7 estimates that 75 percent of selected petitions (73,272) were completed and filed by lawyers or other accredited representatives from the submitted Forms G–28. DHS assumes the remaining petitions (23,926 or 25 percent) are completed and filed by HR specialists. In order to determine the distribution of Forms I–907 among types of petition preparer, DHS uses historical filing data of Form I–907 submitted with H–1B petitions to estimate the number of Forms I–907 that are completed by HR specialists or lawyers.

Table 8 shows the number of Forms I–907 received with selected H–1B cap-subject petitions from fiscal years 2013 to 2017 categorized by accompaniment of a Form G–28. As previously stated, DHS assumes that only in-house lawyers and outsourced lawyers would complete Form G–28. Therefore, Form I–907 petitions received with a Form G–28 are assumed to be completed by a lawyer. Table 8 shows that among selected petitions over the last 5 years, 21,401 Forms I–907 (89 percent)[74] have been completed and filed by lawyers and 2,606 Forms I–907 (11 percent)[75] have not. Therefore, DHS estimates that 89 percent of Forms I–907 would be completed by lawyers and 11 percent would be completed by HR specialists for this analysis.

Table 8: Number of H-1B Petitions Received for Premium Processing (Form I-907) Filed by a Lawyer or Accredited Representative (Form G-28), FY 2013 - 2017.

Fiscal Year	Number of Forms I-907 Received without a Form G-28	Number of Forms I-907 Received with a Form G-28	Total Forms I-907 Received with Selected H-1B Cap-Subject Petitions
2013	2,903	21,828	24,731
2014	2,800	23,060	25,860
2015	2,653	23,849	26,502
2016	3,652	26,970	30,622
2017	1,024	11,300	12,324
5-year average	**2,606**	**21,401**	**24,008**

Source: USCIS Office of Performance and Qualify (OPQ), Performance Analysis and External Reporting (PAER), January 2018.

For selected and unselected petitions, DHS presents costs by type of petition preparer. DHS estimates HR specialists would file 25 percent of Form I–129 H–1B petitions and 11 percent of Forms I–907. Since DHS uses two wages for lawyers, DHS presents these costs as if all in-house lawyers filed or all outsourced lawyers filed 75 percent of Form I–129 H–1B petitions and 89 percent of Forms I–907 (along with Form G–28). In reality, the costs estimated for lawyers are likely to be some distribution of the two ranges presented. To present total costs for an annual filing period, DHS aggregates HR specialist costs and lawyer costs, using in-house lawyer costs for a lower bound and outsourced lawyers as an upper bound.

i. Current Costs to Selected Petitioners

Table 9 shows the current total cost of filed petitions that were selected during the H–1B cap-subject selection process by type of petition preparer. To calculate mailing costs, DHS uses the shipping prices of United States Postal Service (USPS) Domestic Priority Mail Express Flat Rate Envelopes, which is currently priced at $25.80 per envelope.[76]

Under current procedures for H–1B cap-subject petitions, DHS estimates cost to complete and file selected Form I–129 H–1B cap-subject petitions prepared by HR specialists is $16.9 million,[77] Form I–907 is $3.7 million,[78] and mailing cost is $617,280[79] (an aggregate $21.2 million). Similarly, DHS estimates the cost to complete and file selected Form I–129 H–1B cap-subject

[68] Calculation: $244.52 opportunity cost + $460 Form I–129 filing fee = $704.52 total cost per Form I–129 if filed by an HR specialist.

[69] Calculation: $23.24 opportunity cost + $1,410 Form I–907 filing fee = $1,433.24 total cost per Form I–907 if filed by an HR specialist.

[70] Calculation: $523.90 opportunity cost + $460 filing fee = $983.90 total cost per Form I–129 if filed by an in-house lawyer.

[71] Calculation: $49.80 opportunity cost + $1,410 filing fee = $1,459.80 total cost per Form I–907 if filed by an in-house lawyer.

[72] Calculation: $897.09 opportunity cost + $460 = $1,357.09 total cost per Form I–129 if filed by an outsourced lawyer.

[73] Calculation: $85.28 opportunity cost + $1,410 = $1,495.28 total cost per Form I–907 if filed by an outsourced lawyer.

[74] Calculation: 21,401 petitions received with a Form I–907 and a Form G–28/24,008 Total Forms I–907 = 89 percent (rounded).

[75] Calculation: 2,606 petitions received with a Form I–907 and without a Form G–28/24,008 Total Forms I–907 = 11 percent (rounded).

[76] For the purposes of this analysis, we assume that petitioners would use the USPS ''Domestic Priority Mail Express Flat Rate Envelope'' shipping at the retail price to ensure delivery of Form I–129 petitions to USCIS. USCIS also assumes that the petition weighs five pounds and ships locally or in zone 1 or 2. However, USCIS acknowledges that a petitioner may choose other means of shipping. U.S. Postal Service, Price List: *https://pe.usps.com/text/dmm300/Notice123.htm#_c011.* Visited February 23, 2018.

[77] Calculation: 23,926 Forms I–129 filed by HR specialists * $704.52 total cost per petition = $16,856,064 (rounded).

[78] Calculation: 2,606 Forms I–907 (11 percent of 24,008 Forms I–907) * $1,433.24 total cost per Form I–907 = $3,735,023 (rounded).

[79] Calculation: 23,926 Forms I–129 filed by HR specialists * $25.80 mailing cost = $617,280 (rounded).

petitions prepared by in-house lawyers is $72.1 million,[80] Form I–907 is $31.2 million,[81] Form G–28 is $6.4 million,[82] and mailing cost is $1.9 million [83] (an aggregate $111.6 million). If prepared by an outsourced lawyer, DHS estimates the cost to complete and file selected Form I–129 H–1B cap-subject petitions is $99.4 million,[84] Form I–907 is $32.0 million,[85] Form G–28 is $11.0 million,[86] and mailing cost is $1.9 million [87] (an aggregate $144.3 million).

Table 9: Estimated Annual Costs to Selected Petitioners Under Current H-1B Cap-Subject Procedure by Preparer Type (includes opportunity cost of time and filing fees).

	HR Specialist	In-house Lawyer	Outsourced Lawyer
Form I-129	$16,856,064	$72,092,714	$99,437,241
Form I-907	$3,735,023	$31,241,180	$32,000,487
Form G-28	-	$6,422,326	$10,996,722
Mailing Cost	$617,280	$1,890,428	$1,890,428
Cost	**$21,208,367**	**$111,646,648**	**$144,324,878**

Source: USCIS analysis.

ii. Current Costs to Unselected Petitioners

Table 10 shows the estimated costs for the H–1B petitioners whose cap-subject petitions are not selected for adjudication under current procedures for H–1B cap-subject petitions. The fees for these unselected petitions are returned to petitioners and, therefore, petitioners with unselected petitions incur costs only in the opportunity costs of time for completing the appropriate forms and mailing costs for those cap-subject petitions that were not selected. From Table 7 of this analysis, DHS estimates that 72,158 unselected Form I–129 H–1B cap-subject petitions were completed and filed by lawyers or other accredited representatives from the submitted Forms G–28. As seen in Table 7, DHS assumes the remaining H–1B cap-subject petitions (23,562) are completed and filed by HR specialists. DHS also estimates in Table 4 that 23,643 Forms I–907 were filed with H–1B cap-subject petitions that were not selected. USCIS continues to assume of Forms I–907 that were filed with H–1B cap-subject petitions that were not selected 89 percent are completed by lawyers and 11 percent are completed by HR specialists.

DHS estimates the annual cost to complete unselected Form I–129 H–1B cap-subject petitions prepared by HR specialists is $5.8 million,[88] Forms I–907 is $60,447,[89] and mailing costs is $607,900 [90] (an aggregate $6.4 million). DHS estimates the annual cost to complete unselected Form I–129 H–1B cap-subject petitions prepared by in-house lawyers is $37.8 million,[91] Form I–907 is $1 million,[92] Form G–28 is $6.3 million,[93] and mailing costs is $1.9 million [94] (an aggregate $47.0 million). If prepared by an outsourced lawyer, DHS estimates the annual cost to complete unselected Form I–129 H–1B cap-subject petitions is $64.7 million,[95] Form I–907 is $1.8 million,[96] Form G–28 is $10.8 million,[97] and mailing costs is $1.9 million [98] (an aggregate $79 million).

[80] Calculation: 73,272 Forms I–129 filed by lawyers * $983.90 total cost if filed by an in-house lawyer = $72,092,714 (rounded).

[81] Calculation: 21,401 Forms I–907 (89 percent of 24,008 Forms I–907) * $1,459.80 total cost if filed by an in-house lawyer = $31,241,180 (rounded).

[82] Calculation: 73,272 Forms G–28 filed by lawyers * $87.65 cost if filed by an in-house lawyer = $6,422,326 (rounded).

[83] Calculation: 73,272 Forms I–129 filed by lawyers * $25.80 mailing cost = $1,890,428 (rounded).

[84] Calculation: 73,272 Forms I–129 filed by lawyers * $1,357.09 total cost if filed by an outsourced lawyer = $99,437,241 (rounded).

[85] Calculation: 21,401 Forms I–907 (89 percent of 24,008 Forms I–907) * $1,495.28 total cost if filed by an outsourced lawyer = $32,000,487 (rounded).

[86] Calculation: 73,272 Forms G–28 filed by lawyers * $150.08 cost if filed by an outsourced lawyer = $10,996,722 (rounded).

[87] Calculation: 73,272 Forms I–129 filed by lawyers * $25.80 mailing cost = $1,890,428 (rounded).

[88] Calculation: 23,562 Forms I–129 filed by HR specialists * $244.52 opportunity cost = $5,761,380 (rounded).

[89] Calculation: 2,601 Forms I–907 (11 percent of 23,643 Forms I–907) * $23.24 opportunity cost = $60,447 (rounded).

[90] Calculation: 23,562 Forms I–129 filed by HR specialists * $25.80 mailing cost = $607,900 (rounded).

[91] Calculation: 72,158 Forms I–129 filed by lawyers * $523.90 opportunity cost if filed by an in-house lawyer = $37,803,576 (rounded).

[92] Calculation: 21,042 Forms I–907 (89 percent of 23,643 Forms I–907) * $49.80 opportunity cost if filed by an in-house lawyer = $1,047,892 (rounded).

[93] Calculation: 72,158 Forms G–28 filed by lawyers * $87.65 opportunity cost if filed by an in-house lawyer = $6,324,649 (rounded).

[94] Calculation: 72,158 Forms I–129 filed by lawyers * $25.80 mailing cost = $1,861,676 (rounded).

[95] Calculation: 72,158 Forms I–129 filed by lawyers * $897.09 opportunity cost if filed by an outsourced lawyer = $64,732,220 (rounded).

[96] Calculation: 21,042 Forms I–907 (89 percent of 23,643 Forms I–907) * $85.28 opportunity cost if filed by an outsourced lawyer = $1,794,462 (rounded).

[97] Calculation: 72,158 Forms G–28 filed by lawyers * $150.08 opportunity cost if filed by an outsourced lawyer = $10,829,473 (rounded).

[98] Calculation: 72,158 Forms I–129 filed by lawyers * $25.80 mailing cost = $1,861,676 (rounded).

Table 10: Estimated Annual Costs to Unselected Petitioners Under Current H-1B Cap-Subject Procedure by Preparer Type (includes opportunity cost of time and excludes filing fees).

	HR Specialist	In-house Lawyer	Outsourced Lawyer
Form I-129	$5,761,380	$37,803,576	$64,732,220
Form I-907	$60,447	$1,047,892	$1,794,462
Form G-28	-	$6,324,649	$10,829,473
Mailing Cost	$607,900	$1,861,676	$1,861,676
Cost	**$6,429,727**	**$47,037,793**	**$79,217,831**

Source: USCIS analysis.

iii. Total Current Costs for Selected and Unselected Petitioners in an Annual Filing Period

As discussed in Table 7 of this analysis, DHS estimates the distribution of HR specialists and lawyers based on historical filings. DHS estimates that 75 percent of H–1B petitions are prepared by lawyers or other accredited representatives, and 25 percent are completed and prepared by HR specialists or other equivalent occupation. In order to present total costs for an annual filing period, DHS aggregates HR specialist costs and lawyer costs. Since DHS uses two wages for lawyers, DHS presents lawyer costs as if all in-house lawyers filed or all outsourced lawyers filed. DHS assumes a reasonable lower bound estimate for annual filing costs would be HR specialist costs added with in-house lawyers. Similarly, DHS assumes an upper bound estimate for annual filing costs would be reasonably estimated by combining HR specialist costs added with outsourced lawyers. These lower and upper bound estimates reflect the range of total current petitioner costs associated with H–1B cap-subject process in an annual filing period.

Table 11 summarizes the estimated lower bound and upper bound for selected petitioners and unselected petitioners in an annual filing period.

Table 11: Estimated Costs for All (Selected and Unselected) Petitioners in an Annual Filing Period

Petitioner Type	Lower Bound[a]	Upper Bound[b]
Selected Petitioners	$132,855,015	$165,533,245
Unselected Petitioners	$53,467,520	$85,647,558
All Petitioners	$186,322,535	$251,180,803

Source: USCIS analysis.
Note: DHS estimates that 75 percent of H-1B petitions are prepared by lawyers or other accredited representatives and 25 percent are completed and prepared by HR specialists or other equivalent occupation in an annual filing period. Therefore in order to present total costs for an annual filing period, DHS aggregates HR specialist costs and accredited representative costs.

[a]HR specialist cost + in-house lawyer cost = Total costs in annual filing period
[b]HR specialist cost + outsourced lawyer cost = Total costs in an annual filing period

As seen in Table 11, the total current costs for selected petitioners in an annual filing period ranges from $132.9[99] million to $165.5 million,[100] depending on who petitioners use to prepare the petition. The total current costs for unselected petitioners in an annual filing period ranges from

[99] Calculation: $21,208,367 HR specialist cost + $111,646,648 in-house lawyer cost = $132,855,015 total annual cost (rounded).

[100] Calculation: $21,208,367 HR specialist cost + $144,324,878 outsourced lawyer cost = $165,533,245 total annual cost (rounded).

$53.5 [101] million to $85.6 million,[102] again depending on who petitioners use to prepare the petition. Fees returned to unselected petitioners make up the difference between total current costs for selected and unselected petitioners in an annual filing period.

For all petitioners, DHS estimates the total current cost to complete and file an H–1B petition for an annual filling period ranges from $186.3 million to $251.2 million, using lower bound and upper bound calculations.

b. Costs From the Registration Requirement

In order to accurately describe the registration requirements, and distinguish between the petitioner under the current H–1B process, DHS will use the term ''registrants'' when describing impacts to employers intending to petition for H–1B cap-subject beneficiaries under this final rule. The registration requirement results in selected and unselected registrants. Comparing Table 4 and Table 5, DHS assumes that the selected registrant population is equal to the selected petitioner population. Similarly, DHS assumes that the unselected registrant population is equal to the unselected petitioner population.

The registration requirement will impose an additional cost to all registrants who are seeking to file H–1B cap-subject petitions. Selected registrants will be eligible to file an H–1B cap-subject petition. Therefore as selected registrants under the registration requirement, DHS estimates current selected petitioners will incur additional opportunity costs of time to complete the electronic registration relative to the costs of completing and filing the associated H–1B petition. Unselected registrants will not be eligible to file an H–1B cap-subject petition. Therefore as unselected registrants under the registration requirement, DHS estimates the costs of this rule to unselected petitioners will only result from the estimated opportunity costs associated with the registration requirement. Overall, unselected petitioners will experience a cost savings relative to the current H–1B petitioning process since as unselected registrants they will not complete and file an entire H–1B cap-subject petition.

The registration requirement will impose costs to registrants in terms of the opportunity costs of time to create an initial account per user and complete a registration for each prospective cap-subject H–1B worker. Additionally, under this registration requirement, registrations that are completed by lawyers or accredited representatives will require completion annually of Form G–28 once per lawyer-petitioner relationship. This rule will require that all who seek to file an H–1B cap petition (an estimated 192,918 petitions annually) will now be required to register. Only those whose registrations are selected will then be eligible to complete and file an H–1B cap-subject petition on behalf of a prospective H–1B worker for that fiscal year. DHS estimates a range of the total cost of the registration requirement [103] by using the time burden estimated for each account creation (0.17 hours) and registration (0.5 hours) by the wages previously discussed for each type of petition preparer, in addition to the time burden to complete a Form G–28 for in-house and outsourced lawyers.[104]

Unlike the standard for current H–1B cap-subject petitions, lawyers and accredited representatives will not be required to file a separate Form G–28 for each electronic registration when submitting multiple registrations for the same employer. Instead, in the electronic registration environment, a lawyer or accredited representative that submits multiple electronic registrations for an employer will only be required to file Form G–28 once annually for that employer for purpose of filing H–1B cap registrations after which multiple registrations could be filed at various times. This creates efficiency for those lawyers that file multiple registrations for the same employer since the uploaded Form G–28 information can be provided once annually and linked with all registrations filed by that lawyer or accredited representative for that employer. Lawyers and accredited representatives will still be required to complete one electronic registration per beneficiary, and a separate Form G–28 will still be required for each H–1B cap-subject petition subsequently filed based on a selected registration.[105]

The total opportunity cost of time for an HR specialist to create an account will be $7.90 [106] and to register a single beneficiary will be $23.24.[107] The opportunity cost of time for an in-house lawyer to create an account will be $16.93,[108] to register a single beneficiary will be $49.80,[109] and to complete Form G–28 will be $87.65.[110] The opportunity cost of time for an outsourced lawyer to create an account will be $28.99,[111] to register a single beneficiary will be $85.28,[112] and to complete Form G–28 will be $150.08.[113] Therefore, based on the calculated opportunity costs of time, the total cost to submit a registration for a single beneficiary will be $31.14 [114] if submitted by an HR specialist, $154.38 [115] if submitted by an in-house lawyer, and $264.35 [116] if submitted by an outsourced lawyer.

In order to estimate how many accounts will be created for registration of beneficiaries, DHS used historical filings to identify the number of unique entities filing H–1B cap-subject petitions by employer identification number (EIN). DHS distinguishes the

[101] Calculation: $6,429,727 HR specialist cost + $47,037,793 in-house lawyer cost = $53,467,520 total annual cost (rounded).

[102] Calculation: $6,429,727 HR specialist cost + $79,217,831 in-house lawyer cost = $85,647,558 total annual cost (rounded).

[103] As previously stated, DHS does not assume petitioners would need to expend additional funds to procure computer equipment or acquire internet connections because DOL already requires employers to use electronic filing of Labor Condition Applications (LCAs), and an approved LCA is a requisite for requesting an H–1B employee.

[104] Lawyers and accredited representatives who complete electronic registration would need to complete a paper Form G–28 and upload the paper form as a portable document format (PDF) file. One Form G–28 would need to be uploaded for each employer, and can be tied automatically to multiple registrations of beneficiaries under the same employer.

[105] The Form G–28 submission to authorize a lawyer or accredited representative to file registrations for an H–1B cap-subject petition under this rule is separate from the authorization that is required for an attorney or accredited representative to otherwise represent an applicant, petitioner, or requestor. This rule does not change the process or requirements related to the submission of Form G–28 when an applicant or petitioner files an application, petition, or request with USCIS. As such, petitioners with selected registrations who proceed to file an H–1B cap-subject petition will still be required to submit a properly completed Form G–28 if an attorney or accredited representative prepared the petition or will represent the petitioner in the case.

[106] Calculation: $46.49 (HR wage) * 0.17 hours (time to create an account) = $7.90.

[107] Calculation: $46.49 (HR wage) * 0.5 hour (time to register one beneficiary) = $23.24.

[108] Calculation: $99.60 (in-house lawyer wage) * 0.17 hours (time to create an account) = $16.93.

[109] Calculation: $99.60 (in-house lawyer wage) * 0.5 hour (time to register one beneficiary) = $49.80.

[110] Calculation: $99.60 (in-house lawyer wage) * 0.88 hour (time to complete Form G–28) = $87.65.

[111] Calculation: $170.55 (outsourced lawyer wage) * 0.17 hours (time to create an account) = $28.99.

[112] Calculation: $170.55 (outsourced lawyer wage) * 0.5 hour (time to register one beneficiary) = $85.28.

[113] Calculation: $170.55 (outsourced lawyer wage) * 0.88 hour (time to complete Form G–28) = $150.08.

[114] Calculation: $7.90 (HR specialist account creation cost) + $23.24 (HR specialist registration cost) = $31.14.

[115] Calculation: $16.93 (in-house lawyer account creation cost) + $49.80 (in-house lawyer registration cost) + $87.65 (in-house lawyer Form G–28 cost) = $154.38.

[116] Calculation: $28.99 (outsourced lawyer account creation cost) + $85.28 (outsourced lawyer registration cost) + $150.08 (outsourced lawyer Form G–28 cost) = $264.35.

number of filings which included a Form G–28. DHS assumes petitions without a Form G–28 were filed by HR specialists and petitions with a Form G–28 were filed by lawyers.

Table 12 summarizes the filing history for the number of unique entities filing H–1B cap-subject petitions with and without associated Forms G–28.

Table 12: Number of Unique Entities Filing H-1B Petitions With or Without Form G-28, Selected H-1B Cap-Subject Petitions FY 2013-2017.

FY	Number of Unique Petitioners Filing with Form G-28	Number of Unique Petitioners Filing without Form G-28
2013	18,795	1,605
2014	19,639	1,892
2015	18,729	2,171
2016	18,573	2,231
2017	21,039	2,180
5-year average	**19,355**	**2,016**

Source: USCIS Office of Performance and Qualify (OPQ), Performance Analysis and External Reporting (PAER), January 2018.

For selected petitioners, DHS estimates 19,355 unique accounts will be created by lawyers and 2,016 unique accounts will be created by HR specialists for electronic registration based on the five-year historical averages in Table 12 (overall 21,371 unique entities). [117]

To estimate the number of unique accounts created by lawyers and HR specialists for unselected petitioners, DHS applies the proportion of 21,371 unique entities among selected petitions to unselected petitions (populations which are estimated in Table 4) and estimates 21,046 total unique entities.[118] Furthermore, DHS reasonably estimates that 91 percent [119] of unique accounts will be created by lawyers and 9 percent [120] of unique accounts will be created by HR specialists. DHS applies these percentages to 21,046 total unique entities among unselected petitioners and estimates 19,152 [121] unique accounts will be created by lawyers and 1,894 [122] unique accounts will be created by HR specialists.

USCIS recognizes that a single lawyer could represent multiple employers seeking to file H–1B cap-subject petitions, however in each such case a lawyer will need to upload a Form G–28 to represent the unique lawyer and employer relationship. Therefore, DHS also uses the estimate of unique accounts created by lawyers as a reasonable estimate for the total uploads of Forms G–28 during the electronic registration process.

i. Cost to Selected Registrants

The registration requirement will add an additional cost to those whose registrations are selected to complete and file H–1B cap-subject petitions. As stated in Table 5, DHS estimates 97,198 registrations will be selected annually. Of the 97,198 selected registrations, USCIS estimates 73,272 registrations will be submitted by lawyers with the remaining registrations (23,926) submitted by HR specialists.

As stated previously in the calculated opportunity costs of time presented in section 5(a) of this analysis, the total cost to complete and file Form I–129 will be $704.52 and Form I–907 will be $1,433.24 for an HR specialist who files. The total cost to complete and file Form I–129 will be $983.90, Form I–907 will be $1,459.80, and Form G–28 will be $87.65 for lawyers if an in-house lawyer files. The total cost to complete and file Form I–129 will be $1,357.09, Form I–907 will be $1,495.28, and Form G–28 will be $150.08 for lawyers if an outsourced lawyer files.

Table 13 shows the total estimated annual costs to complete and file H–1B petitions for all selected registrants who are eligible to proceed as a petitioner under the registration requirement. DHS estimates the cost to complete electronic registration account creation is $15,926,[123] registration is $556,031,[124] Form I–129 is $16.9 million, Form I–907

[117] Calculation: 19,355 unique entities + 2,016 unique entities = 21,371 total unique entities.

[118] Calculation: 21,371 total unique entities among selected petitions/97,198 selected petitions = 22 percent; 22 percent * 95,720 unselected petitions = 21,046 unique entities among unselected petitions.

[119] Calculation: 19,355/21,371 = 91 percent.

[120] Calculation: 2,016/21,371 = 9 percent.

[121] Calculation: 21,046 unique entities * 91 percent = 19,152 unique entities.

[122] Calculation: 21,046 unique entities * 9 percent = 1,894 unique entities.

[123] Calculation: 2,016 unique HR specialists among selected registrations * $7.90 cost per account creation for HR specialist = $15,926 (rounded).

[124] Calculation: 23,926 selected registrations filed by HR specialists * $23.24 cost per registration = $556,031 (rounded).

is $3.7 million, and mailing cost is $617,280 based on selected registrations anticipated to be prepared by an HR specialist. If completed by an in-house lawyer, DHS estimates the cost to complete electronic registration account creation is $327,680,[125] submitting a Form G–28 with the registration is $1.7 million,[126] registration is $3.6 million,[127] Form I–129 is $72.1 million, Form I–907 is $31.2 million, Form G–28 again with each petition is $6.4 million, and mailing cost is $1.9 million based on selected anticipated to be prepared by in-house lawyers. Finally, if completed by an outsourced lawyer, DHS estimates the cost to complete electronic registration account creation is $561,101,[128] submitting a Form G–28 with the registration is $2.9 million,[129] registration is $6.2 million,[130] Form I–129 is $99.4 million, Form I–907 is $32.0 million, and Form G–28 again with each petition is $11.0 million, and mailing cost is $1.9 million based on selected registrations anticipated to be prepared by lawyers.

Table 13: Estimated Costs for Selected Registrants under the Registration Requirement by Preparer Type (includes opportunity cost of time for registration, opportunity cost of time to complete petition, and filing fees).

	HR Specialist	In-house Lawyer	Outsourced Lawyer
Registration Account Creation	$15,926	$327,680	$561,101
Form G-28 Submission with Registration	-	$1,696,466	$2,904,798
Registration	$556,031	$3,648,966	$6,248,670
Form I-129	$16,856,064	$72,092,714	$99,437,241
Form I-907	$3,735,023	$31,241,180	$32,000,487
Form G-28 Submission with Form I-129	-	$6,422,326	$10,996,722
Mailing Cost	$617,280	$1,890,428	$1,890,428
Total Cost	$21,780,324	$117,319,760	$154,039,447

Source: USCIS analysis.

[125] Calculation: 19,355 unique lawyers * $16.93 cost per account creation for in-house lawyer = $327,723 (rounded).

[126] Calculation: 19,355 unique lawyers * $87.65 cost per Form G–28 upload for in-house lawyer = $1,696,447 (rounded).

[127] Calculation: 73,272 selected petitions filed by lawyers * $49.80 cost per registration for in-house lawyer = $3,649,009 (rounded).

[128] Calculation: 19,355 unique lawyers * $28.99 cost per account creation for outsourced lawyer = $561,169 (rounded).

[129] Calculation: 19,355 unique lawyers * $150.08 cost per Form G–28 upload for outsourced lawyer = $2,904,876 (rounded).

[130] Calculation: 73,272 selected petitions filed by lawyers * $85.28 cost per registration for outsourced lawyer = $6,248,304 (rounded).

Compared to current costs, DHS estimates the registration process will add a new cost of $571,957,[131] $5.7 million,[132] or $9.7 million [133] in costs to selected petitioners depending on the type of preparer. Per petition, as previously stated, DHS estimates the total cost to submit a registration for a single beneficiary will be $31.14 if submitted by an HR specialist, $154.38 if submitted by an in-house lawyer, and $264.35 if submitted by an outsourced lawyer.

ii. Costs to Unselected Registrants

Those whose registrations are not selected will incur new costs as a result from this registration requirement as well. DHS estimates annually 95,720 registrations will be not selected as presented in Table 4. Of the 95,720 unselected registrations DHS estimates 72,158 registrations will be submitted by lawyers with the remaining registrations (23,562) submitted by HR specialists.

Table 14 shows the estimated costs to unselected registrants from this registration requirement. DHS estimates the annual cost to complete electronic registration account creation is $14,963,[134] and cost to complete registrations is $547,581 [135] for HR specialists who submit unselected registrations. DHS estimates the annual cost to complete electronic registration account creation is $324,243,[136] registrations is $3.6 million,[137] and cost to complete and upload Form G–28 is $1.7 million [138] for in-house lawyers who submit unselected registrations. Finally, DHS estimates the annual cost to complete electronic registration account creation is $552,216,[139] registrations is $6.2 million,[140] and cost to complete and upload Form G–28 is $2.9 million [141] for outsourced lawyers who submit unselected registrations.

Table 14: Estimated Costs for Unselected Registrants under the Registration Requirement by Preparer Type (includes opportunity cost of time for registration).

	HR Specialist	In-house Lawyer	Outsourced Lawyer
Electronic Registration Account Creation	$14,963	$324,243	$552,216
Form G-28 Submission with Registration	-	$1,678,673	$2,874,332
Registration	$547,581	$3,593,468	$6,153,634
Total Cost	**$562,544**	**$5,596,384**	**$9,583,182**

Source: USCIS analysis of H-1B cap-subject petition cost.

Table 14 demonstrates the registration process will add a new cost of $562,544, $5.6 million, or $9.6 million in costs to unselected registrants depending on the type of preparer.

iii. Total Costs for Selected and Unselected Registrants in Annual Filing Period

As upper and lower bounds are discussed in section 5(a) of this analysis, DHS estimates total costs for an annual filing period by adding HR specialist costs and lawyer costs. Table 15 summarizes the lower bound and upper bound for selected petitioners and unselected registrants in an annual filing period.

[131] Calculation: $15,926 + $556,031 = $571,957 (rounded).

[132] Calculation: $327,680 + $1,696,466 + $3,648,966 = $5,673,111 (rounded).

[133] Calculation: $561,101 + $2,904,798 + $6,248,670 = $9,714,570 (rounded).

[134] Calculation: 1,894 unique HR specialists among unselected registrations * $7.90 opportunity cost = $14,963 (rounded).

[135] Calculation: 23,562 unselected registrations filed by HR specialists * $23.24 opportunity cost = $547,581 (rounded).

[136] Calculation: 19,152 unique lawyers among unselected registrations * $16.93 cost per account creation for in-house lawyer = $324,243 (rounded).

[137] Calculation: 72,158 unselected registrations filed by lawyers * $49.80 opportunity cost = $3,593,468 (rounded).

[138] Calculation: 19,152 Form G–28 petitions * $87.65 opportunity cost in-house lawyer = $1,678,673 (rounded).

[139] Calculation: 19,152 unique lawyers among unselected registrations * $28.99 cost per account creation for outsourced lawyer = $552,216 (rounded).

[140] Calculation: 72,158 unselected registrations filed by lawyers * $85.28 opportunity cost = $6,153,634 (rounded).

[141] Calculation: 19,152 Form G–28 petitions * $150.08 opportunity cost outsourced lawyer = $2,874,332 (rounded).

Table 15: Summary of Registration Costs and Petition Costs for All (Selected and Unselected) Registrants in an Annual Filing Period under the Registration Requirement.

Estimated Registration Costs (new costs as a result of this registration requirement)		
Registrant Type	Lower Bound	Upper Bound
Selected Registrants	$6,245,069	$10,286,527
Unselected Registrants	$6,158,928	$10,145,726
All Registrants	$12,403,997	$20,432,254
Estimated Petition Costs associated with the New H-1B Cap-Subject Petition Process (estimated costs as a result of the registration requirement)		
Registrant Type	Lower Bound	Upper Bound
Selected Registrants	$139,100,084	$175,819,772
Unselected Registrants	$6,158,928	$10,145,726
All Registrants	$145,259,012	$185,965,498

Source: USCIS analysis.

Note: DHS estimates that 75 percent of H-1B petitions are prepared by lawyers or other accredited representatives and 24 percent are completed and prepared by HR specialists or other equivalent occupation in an annual filing period. Therefore in order to present total costs for an annual filing period, DHS aggregates HR specialist costs and lawyer (or accredited representative) costs.

In Table 15, the estimated registration costs for selected registrants in an annual filing period would range from $6.2 million [142] to $10.3 million,[143] depending on who registrants use to submit the registration. The estimated registration costs for unselected registrants in an annual filing period would range from $6.2 million [144] to $10.1 million,[145] again depending on who registrants use to submit the registration. Therefore, DHS estimates under the registration requirement the total registration cost to all petitioners for an annual filing period will range from $12.4 million to $20.4 million, using lower bound and upper bound calculations.

DHS anticipates selected registrants will complete and file H–1B cap-subject petitions. The total costs for all selected registrants to complete H–1B cap-subject petitions under the registration requirement will range from $134.7 million [146] to $171.4 million,[147] depending on who selected registrants use to complete the process. Under the registration requirement, DHS anticipates unselected registrants will only experience registration costs in pursuing H–1B cap-subject petitions. Therefore, DHS estimates the total registration costs and new costs associated with the H–1B cap-subject petition process are equal for unselected registrants, as seen in Table 15. For all registrants, DHS estimates the total cost to complete and file an H–1B petition for an annual filing period will range from $140.8 million to $181.5 million.

c. Costs of the Registration Requirement to the Government

The government will incur costs to develop the electronic registration requirement. In this final rule and after

[142] Calculation: $571,957 HR specialist cost + $5,673,111 in-house lawyer cost = $6,245,069 annual costs (rounded).

[143] Calculation: $571,957HR specialist cost + $9,714,570 outsourced lawyer cost = $10,286,527 annual costs (rounded).

[144] Calculation: $562,544 HR specialist cost + $5,596,384 in-house lawyer cost = $6,158,928 annual costs (rounded).

[145] Calculation: $562,544 HR specialist cost + $9,583,182 outsourced lawyer cost = $10,145,726 annual costs (rounded).

[146] Calculation: $21,341,632 HR specialist cost + $113,317,338 in-house lawyer cost = $134,658,970 annual costs (rounded).

[147] Calculation: $21,341,632 HR specialist cost + $150,035,823 outsourced lawyer cost = $171,377,455 annual costs (rounded).

reassessing the registration requirements with USCIS' Office of Information Technology, DHS updates the costs associated with the registration website's development since the NPRM was published. USCIS is developing the registration website and will not need to invest in new hardware or other equipment during its development; USCIS will be able to use its current infrastructure. Therefore, the total cost of the registration website to the Government comes from the associated labor costs.

There are two components to the registration website's development: the public facing user-interface and the back-end data management system. For the development of the user-interface component of the registration website, USCIS anticipates paying four contractors for six months for a total of approximately $790,000.[148] For the development of the back-end data management system, USCIS anticipates paying about 10 contractors for six months for a total of approximately $732,000.[149] Annual maintenance of both components, including running the registration website servers and the labor costs associated with server maintenance, are reported as negligible since they are already covered by the current USCIS fee structure and therefore are not separately calculated in these total cost estimates. Any additional future maintenance, development, or enhancement costs to the government associated with the registration system will be considered in future USCIS fee studies and may set an appropriate fee to recover any additional costs not mentioned in this final rule. Accordingly, the total cost to the Government, which includes the development of the user-interface and the back-end data management system, is $1,522,000.[150]

d. Cost to Petitioners From Reversing the Petition Selection Process

As discussed in the population section of this analysis, under the current process, if more petitions are received during the first five business days that petitions may be filed than USCIS has projected are needed to meet both the regular cap and the advanced degree exemption, USCIS randomly selects an estimated 33,495 beneficiaries with master's degrees or higher from U.S. institutions of higher education in total between the regular cap and advanced degree exemption, which accounts for 17 percent of the total H–1B cap-subject petitions received.[151] Under the provision to reverse the selection process, USCIS will now randomly select an estimated 38,835 registrations relating to beneficiaries with an advanced degree from a U.S. institution of higher education, which will account for 20 percent of the total registrations received by USCIS.[152] Conversely, beneficiaries qualifying under the regular cap currently account for 83 percent of selected H–1B cap-subject petitions,[153] and under the new selection process, such beneficiaries will account for 80 percent of selected registrations.[154] Therefore, USCIS anticipates the probability of randomly selecting a petition filed for a beneficiary without a master's or higher degree from a U.S. institution of higher education during the H–1B cap registration selection process under this final rule to fall by 3 percentage points.[155] This could result in fewer selections of petitioners with H–1B cap-subject beneficiaries holding a bachelor's degree, an advanced degree from a U.S. for-profit institution of higher education, or a foreign advanced degree. This potential decrease could result in some higher labor costs to petitioners assuming that beneficiaries with bachelor's degrees, advanced degrees from U.S. for-profit universities or foreign advanced degrees are paid less than and replaced by beneficiaries with master's or higher degrees from U.S. institutions of higher education.[156] However, more highly educated workers tend to have a higher marginal product of labor, which would benefit employers and could be expected to offset the additional wages costs. Thus, any potential wage differential may be more appropriately thought of as a benefit because it takes account of the higher value of the labor resources being brought to the economy.

DHS has been able to develop an estimate of the aggregate increase in the expected number of beneficiaries with master's degrees or above from U.S. institutions of higher education being selected and a commensurate decrease in other types of workers who might otherwise be selected. However, DHS has not been able to determine how this may impact particular industries currently submitting H–1B cap petitions for individuals without master's degrees and above from U.S. institutions of higher education and how this may impact particular types of workers.

6. Benefits

Under the new registration requirement, current unselected petitioners will benefit in the form of cost savings between the current and new process as unselected registrants. The benefits to unselected petitioners will derive from the reduced time and effort required to file an entire petition.

DHS estimated that unselected petitioners experience a cost savings by subtracting new registration costs from the current costs of preparing an H–1B cap-subject petition. Unselected petitioners and the government will also benefit by reduced mailing expenses. Furthermore, DHS estimates the probability that individuals with master's or higher degree from a U.S. institution of higher education will become H–1B workers will increase. Consequently, the registration selection process likely will allow more cap-subject H–1B workers with a master's or higher degree from a U.S. institution of higher education to obtain H–1B status.

a. Benefits to Petitioners From the Registration Requirement

Under the registration requirement, those seeking to file an H–1B cap-subject petition will need to create their electronic registration account, complete registration, and have a selected registration before completing and filing an H–1B cap-subject petition in a particular fiscal year. If USCIS selects a registration, the registrant will then complete and file a Form I–129 (and if necessary Form I–907 and/or Form G–28) on behalf of the beneficiary named in the selected registration. If USCIS does not select a registration, no further steps are required as the registrant will be ineligible to file an H–1B cap-subject petition for the beneficiary in the unselected registration for that fiscal year. The unselected registrant will only incur those opportunity costs of time for

[148] Estimate provided by USCIS Office of Information Technololgy (OIT).

[149] Estimate provided by USCIS Benefits and Biometrics Branch, Systems Engineering Division (SED).

[150] Calculation: (User-interface labor costs) + (back-end data management system labor costs) = $790,000 + 732,000 = $1,522,000.

[151] Calculation: 33,495 advanced degree Forms I–129 selected/192,918 total H–1B cap-subject petitions * 100 = 17 percent (rounded).

[152] Calculation: 38,835 advanced degree registrations selected/192,918 total registrations * 100 = 20 percent (rounded).

[153] Calculation: 100 percent − 17 percent advanced degree beneficiaries = 83 percent regular cap beneficiaries (rounded).

[154] Calculation: 100 percent − 20 percent advanced degree beneficiaries = 80 percent regular cap beneficiaries (rounded).

[155] Calculation: 80 percent − 83 percent = − 3 percent.

[156] While DHS recognizes that wages paid to workers with a master's degrees may be higher than wages paid to workers with a bachelor's degree, it is unclear whether wages paid to workers with a master's or higher degree from a U.S. institution of higher education are higher than those paid to workers with a comparable advanced degree from a foreign educational institution.

creating the electronic registration account and registering the beneficiary, as well as the opportunity costs of time to submit Form G–28 if a lawyer or accredited representative completes the electronic registration. Overall, unselected registrants will save in costs by no longer having to complete and file an entire H–1B cap-subject petition to be selected in the H–1B lottery.

Table 11 presents the current total costs to unselected petitioners in an annual filing period ranges from $53.5 million to $85.6 million, depending on who petitioners use to prepare the petition. These costs represent the opportunity costs of time to complete and file H–1B cap-subject petitions without the filing fees since those are returned to petitioners as well as the costs of mailing in the petition.

Table 15 presents the total cost to unselected registrants under the new registration requirement ranging from $6.1 million to $10.1 million, again depending on the type of preparer who submits the registration. These costs represent the opportunity costs of time to submit a registration in the electronic registration system.

DHS estimates a cost savings for unselected petitioners from the registration requirement by subtracting the total new costs to unselected registrants from the total current costs to unselected petitioners. As summarized in Table 16, DHS estimates the total cost savings will range from $47.3 million [157] to $75.5 million,[158] depending on the type of preparer. This cost savings results because fewer resources will be required to create an account and complete registration than to complete and file H–1B cap-subject petitions.

Table 16: Costs Savings to Unselected Petitioners from the Registration Requirement

Annual H-1B Petition Filing Costs	Lower Bound (In house Lawyer)	Upper Bound (Outsourced Lawyer)
Current Costs to Unselected Petitioners	$53,467,520	$85,647,558
New Costs to Unselected Petitioners	$6,158,928	$10,145,726
Total Cost Savings	**$47,308,592**	**$75,501,832**

Source: USCIS analysis.
Note: *See* Table 9 and Table 14 for cost calculations.

DHS estimates net quantitative impact from the registration requirement by subtracting the total new costs to all registrants (selected and unselected) from the total current costs to all petitioners (selected and unselected). As summarized in Table 17, DHS estimates the net quantitative impact of this registration requirement for H–1B petitioners overall is a positive net annual benefit ranging from $41.0 million to $65.2 million, depending on who the petitioners use to complete the H–1B petition process.

Table 17: Net Quantitative Impact to Petitioners from the Registration Requirement

Annual H-1B Petition Filing Costs	Lower Bound	Upper Bound
Current Costs to Selected and Unselected Petitioners	$186,322,535	$251,180,803
New Costs to Selected and Unselected Petitioners	$145,259,012	$185,965,4983
Total Cost Savings	**$41,063,523**	**$65,215,305**

Source: USCIS analysis.
Note: *See* Table 11 and Table 15 for cost calculations.

[157] Calculation: $53,467,520 (current total costs for unselected petitioners lower bound) – $6,158,928 (total costs for unselected registrants lower bound) = $47,308,592 cost savings.

[158] Calculation: $85,647,558 (current total costs for unselected petitioners upper bound) – $10,145,726 (total costs for unselected registrants upper bound) = $75,501,832 cost savings.

b. Benefits to the Government From the Registration Requirement

USCIS will expect net cost-savings as a result of the registration requirement by no longer needing to receive, handle and return unselected H–1B cap-subject petitions back to petitioners. Table 18 shows the costs to USCIS in FY 2017 from unselected H–1B cap-subject petitions at both the Vermont Service Center (VSC) and California Service Center (CSC), where such petitions are filed and processed. DHS uses the FY 2017 costs to estimate USCIS' cost savings from this final rule.[159] USCIS will save $1.6 million annually by removing petition handling, data entering, return shipping, and other costs.

Table 18: USCIS Costs for Unselected H-1B Cap-Subject Petitions in FY 2017.

	VSC	CSC	Total
Handling (including overtime), data entry, and other costs	$526,357	$479,406	$1,005,763
Shipping costs	$271,015	$335,642	$606,657
Total	$797,372	$815,048	$1,612,420

Source: USCIS Service Center Operations (SCOPS) July, 2017.

As stated in the cost section of this analysis, USCIS will incur a one-time total cost of $1,522,000 to develop the registration website. To measure the net quantitative impact, USCIS estimates the difference between current costs associated with H–1B cap-subject petitions and costs estimated under the registration provision. Summarized in Table 19, the net quantitative impact of the registration requirement for the government is cost savings of $90,420 in the first year, and $1.6 million in each subsequent year.

Table 19: Net Annual Quantitative Impact to Government from the Registration Requirement.

Annual H-1B Cap-Subject Petition Filing Costs (First Year)	**Total Costs to Government**
Current Costs	$ 1,612,420
New Costs (First Year)	$ 1,522,000
Cost Savings (First Year)	**$ 90,420**
Annual H-1B Cap-Subject Petition Filing Costs (Subsequent Years)	**Total Costs to Government**
Current Costs	$ 1,612,420
New Costs (Subsequent Year)	$ 0
Cost Savings (Subsequent Year)	**$ 1,612,420**

Source: USCIS analysis.

The net quantitative impact of the registration requirement for the government is cost savings of $14.6 million undiscounted over 10 years ($12.6 million discounted at 3 percent and $10.6 million discounted at 7 percent over ten years) or an annualized cost savings of $1.4 million discounted at 7 percent. In addition to the estimated cost savings, USCIS will eliminate any potential need to manually enter petition information into the database to eliminate duplicate petitions in order to administer the random selection process. The registration system will allow USCIS to focus its efforts on adjudicating petitions rather than managing the intake, storage and return of tens of thousands of unselected H–1B cap-subject petitions.

[159] While DHS prefers to base assumptions on a longer time period (ideally years), 1 year was the longest time period for which this data could be reported.

c. Net Quantitative Impacts of This Registration Requirement (Petitioners and Government)

DHS estimates the net quantitative impact from the registration requirement by combining the net impact to petitioners and net impact to government as described in preceding sections.

As summarized in Table 18, DHS estimates the net quantitative impact of the registration requirement for H–1B petitioners overall is a positive net benefit ranging from $41.0 million to $65.2 million, depending on who the petitioners use to complete the H–1B petition process. As summarized earlier, the net quantitative impact of the registration requirement for the government is cost savings of $90,420 in the first year, and $1.6 million in each subsequent year. To estimate the net quantitative impact of the registration requirement, DHS calculates the cost savings for the lower bound and upper bound ranges using the total cost savings shown in Table 20.

Table 20: Net Annual Quantitative Impact from the Registration Requirement (undiscounted).

Lower Bound (combination of HR specialist + in-house lawyer)			
	Petitioner Net Cost Savings (Selected and Unselected)	**Government Net Cost Savings**	**Total Costs Savings**
Year 1	$41,063,523	$ 90,420	$ 41,153,943
Sub. Annual	$42,063,523	$1,612,420	$ 43,675,943
Upper Bound (combination of HR specialist + outsourced lawyer)			
	Petitioner Net Cost Savings (Selected and Unselected)	**Government Net Cost Savings**	**Total Costs Savings**
Year 1	$61,215,305	$ 90,420	$ 61,305,725
Sub. Annual	$61,215,305	$1,612,420	$ 62,827,725
Source: USCIS analysis.			

Using lower bound figures, the net quantitative impact of the registration requirement is cost savings of $434.2 million over ten years. These cost savings will be $381.2 million discounted at 3 percent over ten years and $325.7 million discounted at 7 percent over ten years (Table 21).

Table 21: Net Cost Savings from the Registration Requirement, Lower Bound (discounted at 3 percent and 7 percent).

	Non-discounted Estimated Cost	3 Percent Discount	7 Percent Discount
Year 1	$41,153,943.00	$41,153,943.00	$41,153,943.00
Year 2	$43,675,943.00	$42,403,828.20	$40,818,638.30
Year 3	$43,675,943.00	$41,168,765.20	$38,148,260.10
Year 4	$43,675,943.00	$39,969,675.00	$35,652,579.50
Year 5	$43,675,943.00	$38,805,509.70	$33,320,167.80
Year 6	$43,675,943.00	$37,675,252.10	$31,140,343.70
Year 7	$43,675,943.00	$36,577,914.70	$29,103,125.00
Year 8	$43,675,943.00	$35,512,538.50	$27,199,182.20
Year 9	$43,675,943.00	$34,478,192.70	$25,419,796.50
Year 10	$43,675,943.00	$33,473,973.50	$23,756,819.10
Total	**$434,237,430**	**$381,219,592**	**$325,712,855**
Source: USCIS analysis.			

Using upper bound figures, the net quantitative impact of the registration requirement is cost savings of $626.8 million over ten years. These cost savings will be $550.5 million discounted at 3 percent over ten years and $470.6 million discounted at 7 percent over ten years (Table 22).

Table 22: Net Cost Savings from the Registration Requirement, Upper Bound (discounted at 3 percent and 7 percent).

	Non-discounted Estimated Cost	3 Percent Discount	7 Percent Discount
Year 1	$61,305,725	$61,305,725	$61,305,725
Year 2	$62,827,725	$60,997,791.3	$58,717,500.0
Year 3	$62,827,725	$59,221,156.6	$54,876,168.2
Year 4	$62,827,725	$57,496,268.5	$51,286,138.5
Year 5	$62,827,725	$55,821,619.9	$ 47,930,970.6
Year 6	$62,827,725	$54,195,747.5	$44,795,299.6
Year 7	$62,827,725	$52,617,230.6	$41,864,766.0
Year 8	$62,827,725	$51,084,689.9	$39,125,949.5
Year 9	$62,827,725	$49,596,786.3	$36,566,308.0
Year 10	$62,827,725	$48,152,219.7	$34,174,119.6
Total	**$626,755,250**	**$550,489,235**	**$470,642,945**
Source: USCIS analysis.			

DHS notes that these overall cost savings result only in years when the demand for registrations and the subsequently filed petitions exceeds the number of available visas needed to meet the regular cap and advanced degree exemption allocation. For years where DHS has demand that is less than the number of available visas, the registration requirement will result in costs.

DHS conducted a break-even analysis to determine how many registrations and subsequently filed petitions will be needed to offset the costs imposed by this rule. This analysis shows the number of registrations and subsequently filed petitions that will need to be received to ensure that cost-savings exceed the costs added by the registration requirement (Table 23).

Table 23: Projected H-1B Cap-Subject Petitions Needed for Benefits (Cost-savings) to Exceed Costs Under the Registration Requirement.

Total Annual Cost Under Registration Requirement (Petitioner and Government Costs)	Number of Petitions
$153,221,714 (Lower Bound)	112,913
$201,956,457 (Upper Bound)	112,169
Source: USCIS analysis.	

Total costs under the registration requirement are a combination of costs to petitioners and costs to government, presented in Table 23 as a range with lower bound $153.22 million (preparer types HR specialist and in-house lawyer) and upper bound, $201.96 (preparer types HR specialist and outsourced lawyer).[160] To calculate the number of petitions at which the new costs under this final rule offset the total cost-savings, DHS used a standard break-even formula.[161]

Based on each lower and upper bound cost estimate, DHS set receipt volume to the estimated number of H–1B cap-subject petitions randomly selected each year (97,198) and static target equal to 0 (representative of a breakeven point) and solved for the value of how many petitions were needed to reach the target value of 0. From the resulting output, DHS estimates that 112,913 petitions (registrations and subsequently filed petition under this rule) will need to be received by USCIS for this provision to break-even based on lower bound costs. Another way to say this is that this rule will break-even if USCIS received 15,715 registrations above the numerical limitations in a given year for the lower bound estimate. DHS estimates USCIS will need to receive 112,169 registrations and subsequently filed petitions (or an additional 14,971 registrations above the numerical limitations) for the registration requirement to break-even based on upper bound costs. Since this government cost of $1,522,000 is a one-time cost, for future years DHS estimates that 109,834 petitions will need to be received by USCIS for this provision to break-even based on lower bound costs and 110,239 petitions for this provision to break-even based on upper bound costs.

d. Benefits to Petitioners From Reversing the Petition Selection Process

As discussed in the section 4 of this analysis, USCIS currently randomly selects an estimated 33,495 H–1B cap-subject petitions filed for beneficiaries with a master's or higher degree from a U.S. institution of higher education (*see* Table 6), which accounts for 17 percent of the total H–1B cap-subject petitions received annually. Under the reversal of the selection process imposed by this final rule, in years when the number of registrations received during the initial registration period exceeds the projected number of registrations needed to meet the numerical limits, there is a probability that USCIS will randomly select an estimated 38,835 registrations for beneficiaries with a master's or higher degree from a U.S. institution of higher education, which would account for 20 percent of the total registrations received. USCIS anticipates that the probability of selecting registrations for H–1B beneficiaries with a master's or higher degree from a U.S. institution of higher education will rise by 3 percentage points, (shifting from 17 percent to 20 percent).[162]

7. Labor Market Impacts

Congress currently limits the number of new cap-subject H–1B workers to 85,000, with 20,000 visas allocated to H–1B beneficiaries with a master's or higher degree from a U.S. institution of higher education and 65,000 visas allocated to the remaining pool of H–1B beneficiaries that could include H–1B workers eligible for either the advanced degree exemption or regular cap. The new provisions requiring registration prior to filing an H–1B cap-subject petition, as well as the amendment to the order in which beneficiaries are counted toward the advanced degree exemption allocation and regular cap will change the H–1B cap-subject petitioning process. Neither of these changes will amend the numerical limit on individuals who may be issued H–1B visas or otherwise accorded H–1B status as provided by Congress. In other words, neither of the provisions changes the number of new H–1B workers entering the U.S labor force. Therefore, this rule does not directly impact the labor market. While this rule does not change the numbers of H–1B workers in the labor market, it could change the composition of future H–1B workers. The selection process will likely increase the probability that more H–1B workers with a master's or higher degree from a U.S. institution of higher education may obtain classification as H–1B workers. While some of these beneficiaries might already be in the U.S. labor market based on an existing nonimmigrant status and associated employment authorization (*e.g.,* F–1 nonimmigrant student status and Optional Practical Training employment authorization), others will be new to the

[160] The costs to petitioners are presented in Table 15 and the one-time cost to government is estimated to be an annualized amount of $1,522,000 as detailed in the costs section of this analysis.

[161] DHS conducted break-even analysis through Goal Seek in Microsoft Excel. Goal Seek sets a formula equal to a certain target (0 for breakeven analysis) and solves for the value of one parameter at that target.

[162] Calculation: 20 percent—17 percent = 3 percent.

U.S. labor market, thereby increasing the level of H–1B workers in the U.S. labor market educated at a U.S. institution of higher education.

DHS acknowledges that this regulation will likely result in a shift from one pool of H–1B cap-subject workers to another pool of H–1B cap-subject workers. DHS believes it is possible that petitioning employers may choose to petition for a higher number of H–1B beneficiaries that have advanced degrees from a U.S. institution of higher learning than may currently be the case. However, DHS was not able to estimate the magnitude of such transfers. DHS recognizes that there are potential wage increases for those that earn a master's degree compared to those with only a bachelor's degree. Overall, individuals with a master's degree earned 19.6 percent more in wages than individuals with a bachelor's degree. Additionally, workers with a master's degree in selected STEM occupations earned between 18 and 33 percent more than workers with a bachelor's degree in those same occupations.[163] However, due to the variability in the composition and delineation of workers in our H–1B petition process, DHS is not able to estimate the magnitude of such transfers for the specific pool of H–1B workers. Importantly, within the regular cap there are H–1B beneficiaries that have bachelor's degrees (or their equivalents) as well as beneficiaries that have advanced degrees from foreign institutions of higher education.

Using fully loaded wages, and assuming that there is a shift of about 5,000 visas from individuals in the general pool to individuals in the advanced degree pool, DHS finds that the rule is likely to have an annualized transfer of fully loaded wagesthat is greater than $100 million.[164] For instance, with this assumption of 5,000 visas shifted from individuals in the general pool to individuals in the advanced degree pool, the fully-loaded wages transferred will only need to average at least $20,000, discounted, to reach the $100 million threshold. DHS notes that the magnitude of such transfers are uncertain at this juncture given that the cap allocation process is by definition unpredictable, that the regular cap includes individuals with advanced degrees from foreign universities, and that wages can vary widely between occupations, as well as location of employment (*e.g.,* New York, NY v. Sioux Falls, SD).

8. Alternatives

Alternative 1: First-In, First-Out Registration Process

In the development of this final rule, DHS considered an alternative to the H–1B cap registration and selection process. The alternative considered was a first-in, first-out registration process, where USCIS would select the first petitioners to complete electronic registrations instead of using a random sampling process. This alternative would simplify the selection process for USCIS. However, it would likely create an unfair advantage for petitioners with relatively greater resources to complete registrations faster and in greater volume than other small entities that may not have the same resources or experience. DHS determined that this option would unfairly disadvantage small entities and decided against it.

Alternative 2: Status Quo

DHS also considered maintaining the current regulatory and policy guidelines for the H–1B cap selection process (the status quo alternative). Under this alternative, DHS would continue to expend resources towards opening and sorting petitions, identifying properly filed petitions, and removing duplicate petitions before proceeding with the petition selection process. In years of high petition volume, these duties would continue to present DHS with operational challenges that include greater labor needs and limited space at Service Centers where petitions are stored, sorted, and selected.

Also, under the status quo, all petitioners seeking to file a petition on behalf of an H–1B worker would have to complete and file Form I–129 without any guarantee that their petition would be selected during the H–1B cap filing period, therefore expending time and resources to complete and submit the entire petition. As explained in section 5(a)(iii) of this analysis, under the current process, the total cost for all petitioners to complete and file an H–1B petition for an annual filling period ranges from $186.3 million to $251.2 million, using lower bound and upper bound calculations. The status quo alternative is a much more costly process for petitioners as long as demand continues to exceed available visas. Additionally, the high costs of filing a full H–1B petition without the guarantee of obtaining a worker under the status quo could be a barrier to some small entities. The lower costs of a registration system could allow more small entities to submit a registration that otherwise may not file a full H–1B petition.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies to consider the potential impact of regulations on small entities during the development of their rules. The term ''small entities'' comprises of small businesses, not-for-profit organizations that are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. An ''individual'' is not defined by the RFA as a small entity and costs to an individual from a rule are not considered for RFA purposes. In addition, the courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities. Consequently, any indirect impacts from a rule to a small entity are not considered as costs for RFA purposes.

This final rule may have direct impacts to those entities that petition on behalf of H–1B cap-subject workers. Generally, petitions are filed by a sponsoring employer who may incur some additional costs from the proposed registration requirement. Therefore, DHS examines the direct impact of this final rule on small entities in the analysis that follows.

1. Final Regulatory Flexibility Analysis

Small entities primarily impacted by this final rule are those that would incur additional direct costs to electronically register to file an H–1B cap-subject petition. DHS conducted a statistically valid sample analysis of H–1B cap-subject petitions to determine the number of small entities directly impacted by this rule.[165] These costs are related to the additional opportunity cost of time for a selected small entity

[163] Source: Bureau of Labor Statistics, Department of Labor, ''Measuring the Value of Education April 2018'': *https://www.bls.gov/careeroutlook/2018/data-on-display/education-pays.htm.* Visited November, 2018. Bureau of Labor Statistics, Department of Labor, ''Should I Get a Master's Degree?'': *https://www.bls.gov/careeroutlook/2015/article/should-i-get-a-masters-degree.htm#STEM.* Visited November, 2018.

[164] As discussed elsewhere in the document, DHS uses a multiplier of 1.46 to establish a fully loaded wage that accounts for benefits and overhead costs in addition to gross salary.

[165] Although Form I–129 collects data on petitioners' numbers of employees and annual business income, the use of statistically valid random samples allow us to draw conclusions on the population as a whole. Additionally, more in-depth research of petitioner's information using this statistically valid sample ensures the integrity of the data needed to estimate the impact to small businesses likely to be affected by this proposed rule.

to complete the registration process in this rule. Additionally, if a lawyer or other accredited representative completed the electronic registration on behalf of a petitioner, these additional costs will also include the opportunity costs of time to submit Form G–28. These opportunity costs of time will be an additional burden to completing and filing H–1B cap-subject petitions for selected entities.

a. A Statement of the Need for, and Objectives of, the Rule.

The purpose of this final rule is to streamline the H–1B cap-subject petition process. In the last several years, USCIS has received large numbers of H–1B cap-subject petitions in the first few days of the filing season that have far exceeded the annual numerical limitations set by Congress. DHS has found that USCIS spends an inordinate amount of time on handling the volume of petitions received within the first few days of the H–1B filing period. After expending USCIS resources to ensure proper processing of these petitions, USCIS still must reject and return petitions and associated fees that are not selected in the current H–1B cap-subject selection process. Petitioners are also adversely affected by the current petition process. Preparing and mailing H–1B cap-subject petitions, with the required filing fee, can be burdensome and costly for petitioners, especially if USCIS returns the petition because it was not selected in the current H–1B-subject cap selection process. This registration process will improve the agency's ability to manage the H–1B cap-subject petition process and reduce the burden on those petitioners whose registrations are not selected and who are therefore ineligible to file an H–1B cap-subject petition for that fiscal year. Additionally, this final rule also amends the process by which USCIS selects H–1B petitions toward the projected number of petitions needed to reach the regular cap and advanced degree exemption. Changing the order in which petitions are selected will increase the probability of selecting more petitions under the regular cap for H–1B beneficiaries who possess a master's or higher degree from a U.S. institution of higher education each fiscal year.

b. A Statement of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Statement of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

Comment: A business association argued that small businesses in particular would be negatively impacted by the registration requirement as they would not have the necessary resources that would allow for such changes in time for the FY 2020 H–1B cap year. More specifically, this commenter argued that requiring the registration process for the FY 2020 H–1B cap season will prevent businesses from realizing the cost savings associated with registration because they have already expended resources to complete a full petition for the upcoming cap season. The commenter goes on to state that the registration process would negatively impact business across industries because it increases the uncertainty of obtaining their needed workforce. Also, the commenter was concerned with how small businesses will mitigate the registration's low barrier to entry, where larger companies might flood the system, placing small businesses at a disadvantage. Another commenter similarly argued that these changes would favor larger companies, who would obtain a larger share of H–1B visas at the expense of smaller companies.

Response: DHS appreciates the commenters' concerns of the impact of the registration requirement on small entities. As mentioned previously in this final rule, USCIS will be suspending the implementation of the registration requirement until further notice. Therefore, due to the delayed implementation, entities submitting H–1B cap subject petitions will realize the cost savings as outlined in Executive Orders 12866 and 13563.

DHS disagrees with the commenter's assertion that this rule will increase uncertainty for entities. This final rule establishes a registration requirement that, when implemented, will streamline the H–1B cap selection process. The manner of selection, however, mirrors the manner of selection under the current petition-based process, with the exception of the reversal of the selection order for the numerical allocations. While DHS recognizes that there is uncertainty in the random selection process, that uncertainty is not increased by this final rule or through the use of a registration system. DHS believes the benefits of the registration requirement, when applicable, outweigh the costs, and the use of a random selection process is useful to fairly administer the H–1B allocations in years of high demand for new H–1B workers. DHS points out that small entities across industries will benefit since they will only have to register, once registration is required, rather than fill out and submit an entire H–1B petition as is currently required. This could cause some small entities to register for the H–1B cap that might have not have otherwise since the costs to filing an entire H–1B petition are substantially higher than that of submitting a registration.

DHS reiterates that competition among hiring entities will not be removed or impacted by the registration system. However, registration will ease and lower the cost of entry to allow for more participation by small entities than under the current process. USCIS will provide an initial 14-day registration period where the random lottery will be used if demand is high or all registrations will be selected if demand is below the number of registrations projected as needed to reach the H–1B numerical allocations. This initial registration period is designed to ensure fairness for small entities by avoiding massive submissions of registrations as soon as registration opens and thereby unfairly being advantageous to larger entities that may have the resources to submit registrations rapidly and effectively crowd-out smaller entities. The annual initial registration period, which will remain open for at least 14 days each year that registration is required, regardless of the number of registrations received, will provide smaller entities sufficient time to submit registrations without being crowded-out by large entities. In addition, DHS believes that it is speculative to conclude that the registration system would result in large entities crowding-out small entities any more than they might already have the capacity to do under the current petition based process given that large entities may be able to more easily incur the costs associated with filing a petition. DHS believes that it is equally possible that small entities that do not currently participate may be more inclined to seek to employ an H–1B worker when the registration requirement is implemented, given the low cost to submit a registration. If more small entities file registrations, it is equally possible that the additional rates of participation by small entities could reduce the overall chances of selection for large entities. Either way, the degree

to which large entities may crowd-out small entities, or vice versa, is entirely speculative and DHS therefore does not believe that changes are needed to this final rule to address such speculation. DHS believes that the random selection process, when applicable, is sufficient to ensure that all registrants are considered fairly.

Comment: Multiple commenters argued that small businesses would be at a disadvantage because they would need to prioritize costlier employees with a master's degree over an equally competent candidate without one.

Response: Entities make the cost-benefit decision to hire workers that maximize production and profit to the entity. DHS disagrees that reversing the selection process always results in higher labor costs for entities. For example, entities could hire an H–1B worker with a master's degree from a U.S. higher educational institution over an H–1B worker with a Ph.D. from a foreign higher educational institution. Depending on the industry, location, etc. of the entity and worker, labor costs would be variable and may not always be higher.

Comment: A commenter suggested small businesses should get an extended time period to better understand the rule, while another commenter proposed a small business exemption that would give special preference to the hiring needs of small businesses. Similarly, a trade association suggested a separate exemption pool for small businesses should be made within the registration process to give such firms greater access to H–1B visas.

Response: DHS does not believe that small entities require special compliance accommodations for this rulemaking or that DHS has the statutory authority to provide special preference or exemptions to small businesses in the H–1B cap selection process. DHS is already delaying the implementation of the registration requirement, which DHS believes will be beneficial to all stakeholders involved. This delay in implementation and further notice from USCIS will provide small entities with the time necessary to adequately familiarize and plan for the new process.

c. The Response of the Agency to Any Comments Filed by the Chief Counsel For Advocacy of the Small Business Administration in Response to the Proposed Rule, and a Detailed Statement of Any Change Made to the Proposed Rule in the Final Rule as a Result of the Comments

The Acting Chief Counsel for Advocacy provided a comment on the proposed rule on behalf of the Small Business Administration (SBA). DHS summarizes and responds to the comment as follows.

Comment: The SBA Office of Advocacy (''Advocacy'') believes the registration requirement may not accomplish cost savings as estimated by USCIS in the NPRM in either the first year or any subsequent year. Advocacy believes that the registration requirement will just add another layer of bureaucracy to an already complicated process. Advocacy states that small businesses may not have cost savings in future years with this registration requirement because petitioners will hire attorneys and spend the same amount of time evaluating beneficiaries. Advocacy states that this rule will only make this process happen a month earlier than it otherwise would have under the current petition-based process.

Response: DHS does not plan to implement the registration requirement until after the FY 2020 H–1B cap year. While this rule will add another step in the process, when registration is required, for petitioners who are selected and thus eligible to submit an H–1B cap petition on behalf of a beneficiary named in the applicable registration selection notice, this additional registration step considerably reduces the time for those with unselected registrations. DHS believes the registration requirement makes the H–1B cap selection process more cost effective for petitioners and the government. Additionally, DHS disagrees with Advocacy that this rule will not produce cost savings in any given year. The registration process is intended to collect basic questions about the petitioner and the intended beneficiary which could reasonably be completed without the aid of an attorney, compared to the current lengthy and complicated process that requires the filling out of an entire H–1B Form I–129 petition. When registration is required, a petitioner could actually wait until after registration selection to incur the additional time and expense of petition preparation. Further, DHS disagrees with Advocacy's assertion that the registration requirement will extend the H–1B cap petition preparation timeline. As many commenters have expressed, in requesting DHS to delay implementation of the registration requirement, many petitioners and law firms begin the H–1B cap petition preparation process several months in advance of when petitions may be filed. As such, registration will not extend the timeline but rather will coincide with the existing timeline. Further, given the limited information needed to register, as opposed to that require to submit a complete H–1B cap-subject petition, the registration requirement may even reduce the overall timeline as petitioners and law firms would have the option to delay petition preparation until after registration selection has occurred for the applicable fiscal year.

Comment: Advocacy believes that USCIS underestimated the compliance costs of the registration requirement. Advocacy summarizes the methodology USCIS used in the NPRM by stating that small entities are likely to employ outsourced attorneys at a total cost of $264.35 and that registration will only take 1.55 hours. Advocacy believes that USCIS should increase burden estimates to factor in that small businesses may have multiple registrants.

Response: DHS disagrees with Advocacy in underestimating the costs of the registration requirement. DHS uses a reasonable methodology and approach to determine the total per petition cost of registration. DHS uses a loaded wage of $170.55 for outsourced lawyers to account for higher salaries based on national wage data and employer paid benefits based on compensation costs provided by the Bureau of Labor Statistics. DHS uses time burdens of 0.17 hours for completion of account creation, 0.5 hours to complete registration, and 0.88 hours for filing and submitting Form G–28 (total of 1.55 hours). DHS reiterates that both the 0.17 hours for account creation and the 0.88 hours for filing and submitting Form G–28 are already OMB approved information collections. Further, DHS continues to believe that 0.5 hours is reasonable and adequate time for completion of registration since the tool only requests basic information. DHS believes it would be erroneous to increase the time burden for the registration requirement. Advocacy did not provide an alternative methodology for determining costs or burden in its comment and therefore, DHS believes the current costs are appropriate and reasonable estimates. DHS recognizes that one petitioner may submit multiple registrations and already addresses these situations in the rule. In the Executive Orders 12866 and 13563 sections of the NPRM and this final rule, DHS explicitly discusses that lawyers will only have to submit one Form G–28 when submitting multiple registrations for the same employer and accounts for this cost. DHS states that this will create efficiency for those lawyers that file multiple registrations for the same employer since the uploaded Form G–28 information can be provided once annually and linked with

all registrations filed by that lawyer or accredited representative for that employer. DHS also explicitly estimates the number of unique accounts and registrations and provides costs by preparer type in the Executive Orders 12866 and 13563. Therefore, DHS believes it is appropriate to keep the time burden estimate as proposed for the registration requirement in this final rule.

Comment: Advocacy recommends re-analyzing the impact to small businesses resulting from the advanced degree exemption allocation change. Advocacy states that small start-up businesses note that most skilled and highest paid staffers at their tech companies often only have a 4-year degree and this provision may deter these types of companies from participating in the H–1B program. Advocacy states that this rule does not factor work experience of employees with a bachelor's degree who might be more skilled than a recent graduate student.

Response: DHS does not believe that the impact to small entities resulting from the advanced degree exemption allocation provision needs to be re-analyzed. DHS was not able to quantify the impact of this provision because the H–1B cap selection process often involves a random lottery given the excess demand for new H–1B workers, and DHS cannot predict or control how many bachelor's or master's degree holders from U.S. institutions are ultimately selected during random selection. Additionally, DHS reiterates that the purpose of the change in the advanced degree exemption is to increase the probability of selecting more workers that have a master's degree or higher from a U.S. educational institution. DHS disagrees with Advocacy's conclusion that small entities will be deterred from participating in the H–1B program. DHS believes that the lower barrier in costs resulting from this rule will in fact increase participation by small entities.

Comment: Advocacy states that the timing of an early registration process may shut small businesses out of the H–1B program who cannot anticipate their employment needs or may not have the necessary budget seven or more months in advance. They note that some small U.S. based IT staffing companies already find it difficult to meet the April 1st deadline. Additionally, Advocacy is concerned that 60 days may not be enough time for some small businesses to obtain the needed documentation to file a petition, such as a Labor Condition Application.

Response: As previously stated, in each fiscal year, the registration period will begin at least 14 calendar days before the first day of petition filing and will last at least 14 calendar days. DHS notes that although registration will occur prior to the previous filing period, the process will reduce the cost, paperwork burden, and complexity of participation to all businesses regardless of size and believes this benefit outweighs any costs, including registration periods that are 14 calendar days prior. Additionally, and as described in the preamble of this final rule, DHS initially proposed a filing period of at least 60 days in the NPRM. In response to public comments stating that 60 days is an insufficient amount of time for a company to gather all the necessary documentation to properly file the petition, DHS is revising the filing period to be at least 90 days.

Advocacy also commented on the flooding of registrations that would be received and the use of an improperly tested electronic system. DHS has provided responses to similar comments in other part of this preamble.

d. A Description of and an Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

DHS conducted a statistically valid sample analysis of H–1B cap-subject petitions to determine the maximum potential number of small entities directly impacted by this rule. DHS utilized a subscription-based online database of U.S. entities, Hoovers Online, as well as two other open-access, free databases of public and private entities, Manta and Cortera, to determine the North American Industry Classification System (NAICS) code, revenue, and employee count for each entity.[166] In order to determine a business' size, DHS first classified each entity by its NAICS code, and then used SBA guidelines to note the requisite revenue or employee count threshold for each entity. Some entities were classified as small based on their annual revenue and some by number of employees.

Using FY 2016 data on H–1B cap-subject petitions selected in the H–1B cap-subject selection process, DHS collected internal data for each filing organization.[167] Each entity may make multiple filings. For instance, there were 95,839 H–1B cap-subject petitions selected,[168] but only 20,046 [169] unique entities that filed H–1B cap-subject petitions. DHS devised a methodology to conduct the small entity analysis based on a representative, statistically valid random sample of the potentially impacted population. To achieve a 95 percent confidence level and a 5 percent confidence interval on a population of 20,046 entities, DHS used the standard statistical formula to determine that a minimum sample size of 377 entities was necessary. DHS created a sample size 30 percent greater than the 377 minimum necessary in order to increase the likelihood that our matches would meet or exceed the minimum required sample. Of the 491 entities [170] sampled, 385 instances resulted in entities defined as small (Table 24). Of the 385 small entities, 293 entities were classified as small by revenue or number of employees. The remaining 92 entities were classified as small because information was not found (either no petitioner name was found or no information was found in the databases). A total of 103 entities were classified as not small. Therefore, of the 20,046 entities that filed at least one Form I–129 in FY 2016, DHS estimates that 78 percent or 15,636 entities are considered small based on SBA size standards.[171]

[166] The Hoovers website can be found at *http://www.hoovers.com/; The* Manta website can be found at *http://www.manta.com/;* and the Cortera website can be found at *https://www.cortera.com/.*

[167] USCIS Office of Performance and Qualify (OPQ), Performance Analysis and External Reporting (PAER), May 25, 2017.

[168] Number of petitions reported in this IRFA (95,839) shows 7 more receipts than is shown in the population section of the Economic Analysis (95,832). This discrepancy is due to OPQ pulling the data for the IRFA (April 25, 2017) and the data for the Economic Analysis (May 22, 2017) from the same database at different times. During the time in between data pulls, petitioner(s) withdrew 7 H–1B petitions. We do not know which petitions were withdrawn. Therefore, the IRFA uses all petitions as of April 25, 2017.

[169] Number of unique entities reported in this IRFA (20,046) shows 426 more receipts than is shown in Table 6 of the costs section of the Economic Analysis (19,620). This discrepancy is due to OPQ pulling the data for the IRFA (April 25, 2017) and the data for the Economic Analysis (January 12, 2018) from the same database at different times. During the time in between data pulls, petitioner(s) withdrew H–1B petitions. We do not know which petitions were withdrawn. Therefore, the IRFA uses all petitions as of April 25, 2017.

[170] Calculation: 377 + (377 * 30 percent) = 491 (rounded).

[171] Calculation: 20,046 entities * 78 percent = 15,636 small entities (rounded).

Table 24: Summary and Results of Small Entity Analysis of H-1B Cap-Subject Petitions		
Parameter	**Quantity**	**Proportion of Sample (percent)**
Population—Selected H-1B cap-subject petitions	95,839	-
Population—Unique Entities	20,046	-
Minimum Required Sample	377	-
Selected Sample	491	100.00
Entities Classified as "Not Small"		
by revenue	98	19.96
by number of employees	8	1.63
Entities Classified as "Small"		
by revenue	233	47.45
by number of employees	60	12.21
because no information found in databases	92	18.75
Total Number of Small Entities	**385**	**78.41** [a]
Source: USCIS analysis. [a] Calculation: 47.45 percent (Entities classified as small by revenue) + 12.21 percent (Entities classified as small by number of employees) + 18.75 percent (Entities classified as small because no information found in database) = 78 percent (total number of small entities, rounded).		

As previously stated, DHS classified each entity by its NAICS code to determine business' size. Table 25 shows a list of the top 10 NAICS industries that submit an H–1B cap petition.

Table 25: Top 10 NAICS Industries Submitting Form I-129, Small Entity Analysis Results.

Rank	NAICS Code	NAICS U.S. Industry Title	Size Standards in millions of dollars[a]	Size Standards in number of employees[a]
1	541511	Custom Computer Programming Services	$27.5	-
2	541512	Computer Systems Design Services	$27.5	-
3	561499	All Other Business Support Services	$15.0	-
4	541330	Engineering Services	$15.0	-
5	511210	Software Publishers	$38.5	-
6	541611	Administrative Management and General Management Consulting Services	$15.0	-
7	334413	Semiconductor and Related Device Manufacturing	-	1,250
8	541618	Other Management Consulting Services	$15.0	-
9	541690	Other Scientific and Technical Consulting Services	$15.0	-
10	325412	Pharmaceutical Preparation Manufacturing		1,250

Source: USCIS analysis.
[a] The Small Business Administration (SBA) has developed size standards to carry out the purposes of the Small Business Act and those size standards can be found in 13 C.F.R., section 121.201.

The increase in cost per petition to file Form I–129 (and if relevant, Forms I–907 or G–28) on behalf of a cap-subject H–1B worker is the opportunity cost of time to create an account, complete the registration and file Form G–28 if registration is completed by a lawyer. As previously stated in section 5(b), this final rule will add $31.14 [172] in costs to submit a registration for a single beneficiary if an HR specialist files, $152.19 [173] in costs to submit a registration for a single beneficiary if an in-house lawyer files, and $264.35 [174] in costs to submit a registration for a single beneficiary if an outsourced lawyer files (an average cost of $149.23 per entity), which are summarized in Table 26. In order to calculate the impact of this increase, DHS estimates the total costs associated with the registration increase for each entity, divided by sales revenue of that entity.[175] [176]

Table 26: Cost per Registration Associated with the Registration Requirement by Type of Preparer.

	HR Specialist	In-house Lawyer	Outsourced Lawyer
Cost for Single Registration	$31.14	$154.38	$264.35

Source: USCIS analysis.

[172] Calculation: $7.90 opportunity cost of account creation + $23.24 opportunity cost of registration = $31.14 added costs.

[173] Calculation: $16.93 opportunity cost of account creation + $49.80 opportunity cost of registration + $87.65 cost to complete Form G–28 for in-house lawyer = $154.38 added costs.

[174] Calculation: $28.99 opportunity cost of account creation + $85.28 opportunity cost of registration + $150.08 cost to complete Form G–28 for in-house lawyer = $264.35 added costs.

[175] For HR specialists: Total Impact to Entity = Number of Petitions * ($31.14)/Entity Sales Revenue. For in-house lawyers: Total Impact to Entity = Number of Petitions * ($154.38)/Entity Sales Revenue. For outsourced lawyers: Total Impact to Entity = Number of Petitions * ($264.35)/Entity Sales Revenue.

[176] USCIS used the lower end of the sales revenue range for those entities where ranges were provided.

Since entities can file multiple petitions, this analysis uses the number of petitions submitted by each entity. Entities that were considered small based on employee count with missing revenue data were excluded. Among the 229 small entities with reported revenue data, the greatest economic impact imposed by this rule will be 2.227 percent if an HR specialist files, 11.035 percent if an in-house lawyer files, and 18.896 percent if an outsourced lawyer files. The smallest economic impact will be 0.0001 percent if an HR specialist files, 0.0007 percent if an in-house lawyer files and 0.0012 percent if an outsourced lawyer files. The average impact on all 229 small entities with revenue data will be 0.186 percent if an HR specialist files, 0.921 percent if an in-house lawyer files and 1.576 percent if an outsourced lawyer files.

Table 3 shows that 97,198 H–1B cap-subject petitions are selected annually. Table 21 shows that 78 percent of selected petitioners are considered small based on SBA size standards. Therefore, DHS reasonably assumes that of the 97,198 selected petitioner population, 75,814 [177] selected petitions are submitted by small entities.

Next, DHS estimates the number of selected small entities with beneficiaries holding a master's degree or higher from a U.S. institution of higher education. To estimate this, DHS assumes that the percentage of petitions for the advanced degree exemption received annually by USCIS (29 percent), from section 4, is a reasonable percentage to estimate the relevant distribution among small entities. As stated previously, anecdotal evidence suggests that very few petitions do not align with the education requirements of the numerical limitation under which the petition was submitted. Therefore, of the selected 75,814 petitions submitted by small entities, DHS estimates that 21,986 [178] petitions have a beneficiary holding a master's degree or higher from a U.S. institution of higher education. DHS assumes 50,619 [179] petitions are submitted by small entities for beneficiaries who have not earned a master's degree or higher from a U.S. institution of higher education (*i.e.* beneficiaries who have earned a bachelor's degree (or its equivalent), foreign advanced degree, or advanced degree from an institution in the United States that does not qualify as a U.S. institution of higher education as defined at 20 U.S.C. 1001(a)). DHS is unable to quantitatively estimate the impact of the new selection process on petitioning employers. DHS does not anticipate petitioning employers will suffer economic harm from the decreased probability of selecting, under the new selection process, an H–1B beneficiary who has not earned a master's degree or higher from a U.S. institution of higher education.

d. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

This final rule does not require any new professional skills for reporting, but does directly impose new ''reporting'' requirements in the form of registration for an H–1B cap subject petition. As stated earlier, DHS estimates that 78 percent of entities that filed at least one Form I–129 in FY 2016 were considered small based on SBA size standards. For unselected petitions the total cost will range from $2,324,975 to $19,736,899 depending on the preparer and for selected petitions the total cost for registration ranges from $2,360,862 to $20,041,430 depending on the preparer.[180]

e. Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

This final rule will add a registration requirement for all petitioners who seek to file an H–1B cap-subject petition. DHS considered alternative solutions that are described in further detail in Executive Orders 12866 and 13653. One alternative was a first-in, first-out registration process where USCIS would select registrations strictly in the order in which registrations are properly submitted. This alternative would not minimize the impact on small entities, but rather would disadvantage small entities that would have to compete with the resources and personnel of larger entities, which may enable larger entities to submit registrations faster and sooner than small entities. DHS decided against the alternative described.

Additionally, the status quo alternative is a much more costly process for petitioners as long as demand continues to exceed available visas. The high costs of filing a full H–1B petition without the guarantee of obtaining a worker under the status quo could be a barrier to some small entities. The lower costs of a registration system could allow more small entities to submit a registration that otherwise may not file a full H–1B petition.

C. Executive Order 13771(Reducing Regulation and Controlling Regulatory Costs)

Executive Order (E.O.) 13771 on Reducing Regulation and Controlling Regulatory Costs requires all agencies to repeal or revise at least two existing regulations, guidance documents, or information collections with costs less than zero whenever a new final regulation will have costs greater than zero. Under E.O. 13771 any new incremental costs associated with the proposed regulation must be offset by the elimination of existing costs associated with a repealed or revised regulation or other applicable document. Additionally, no regulation can exceed DHS' total incremental cost allowance set by the OMB Director, unless a waiver is obtained from OMB. For FY 2019, OMB has set a regulatory cost threshold of $0 for DHS.

DHS's analysis finds that this final rule is expected to result in annual net benefits ranging from $43 million to $63 million mainly due to the reduction in time burden of unselected petitioners who would no longer have to complete and file H–1B cap-subject petitions. Since this rule reduces costs and time burden, the rule is considered to be a deregulatory action for the purposes of E.O. 13771. The cumulative cost savings in perpetually annualized 2016 dollars at 7 percent ranges between $35,517,898 and $51,204,860. DHS notes, however, that these cost savings assume that there is no expansion in the number of registrations. Given the lower barrier to submitting a registration as compared to

[177] Calculation: 97,198 annually selected petitions * 78 percent = 75,814 submitted by small entities (rounded).

[178] Calculation: 75,814 petitions * 29 percent = 21,986 petitions.

[179] Calculation: 75,814 − 21,986 = 53,828 petitions.

[180] Calculation: Unselected petitions: HR specialist = (95,720 unselected petitions from Table 4 * 78 percent) * $31.14 from Table 26 = $2,324,975 (rounded); In- house lawyer = (95,720 unselected petitions from Table 4 *78 percent) * $154.38 from Table 26 = $11,526,319; Outsourced lawyers = (95,720 unselected petitions from Table 4 * 78 percent) * $264.35 from Table 26 = $19,736,899. Selected petitions: HR specialists = (97,198 selected petitions from Table 4 * 78 percent) * $31.14 from Table 26 = $2,360,862 (rounded); In- house lawyer = (97,198 selected petitions from Table 4 * 78 percent) * $154.38 from Table 26 = $11,704,165; Outsourced lawyers = (97,198 selected petitions from Table 4 * 78 percent) * $264.35 from Table 26 = $20,041,430.

submitting a petition, DHS believes that it is likely that more registrations will be received under the rule than the agency currently receives in petitions—particularly because DHS will not be charging a fee for registration under this rule at this time. If there is, in fact, an expansion in the number of registrations, the cost savings would be reduced. DHS is uncertain of the extent to which registrations will increase and thus cannot estimate the degree to which cost savings would be reduced at this time.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The value equivalent of $100 million in 1995 adjusted for inflation to 2017 levels by the Consumer Price Index for All Urban Consumers (CPI–U) is $161 million.

This final rule does not exceed the $100 million expenditure in any 1 year when adjusted for inflation ($161 million in 2017 dollars), and this rulemaking does not contain such mandates. The requirements of Title II of the Act, therefore, do not apply, and the Department has not prepared a statement under the Act.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This final rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, as some small businesses may be impacted under this regulation, DHS has prepared a Final Regulatory Flexibility Analysis (FRFA) under the Regulatory Flexibility Act (RFA).

F. Congressional Review Act

DHS has sent this final rule to the Congress and to Comptroller General under the Congressional Review Act, 5 U.S.C. 801 *et seq.* This rule is a ''major rule'' within the meaning of the Congressional Review Act and therefore has a 60-day delayed effective date.

G. Executive Order 13132 (Federalism)

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, DHS has determined that this rulemaking does not have significant Federalism implications to warrant the preparation of federalism summary impact statement.

H. Executive Order 12988 (Civil Justice Reform)

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

I. National Environmental Policy Act

DHS analyzes actions to determine whether NEPA applies to them and, if so, what degree of analysis is required. DHS Directive (Dir) 023–01 Rev. 01 and Instruction (Inst.) 023–01–001 rev. 01 establish the procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508. The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(1)(iii), 1508.4. DHS Instruction 023–01–001 Rev. 01 establishes such Categorical Exclusions that DHS has found to have no such effect. Inst. 023–01–001 Rev. 01 Appendix A Table 1. For an action to be categorically excluded, DHS Inst. 023–01–001 Rev. 01 requires the action to satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the Categorical Exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Inst. 023–01–001 Rev. 01 section V.B (1)–(3).

DHS analyzed this action and has concluded that NEPA does not apply due to the excessively speculative nature of any effort to conduct an impact analysis. Nevertheless, if NEPA did apply to this action, the action clearly would come within our categorical exclusion A.3(d) as set forth in DHS Inst. 023–01–001 Rev. 01, Appendix A, Table 1.

As discussed in more detail throughout this final rule, this rule will require petitioners seeking to file H–1B cap-subject petitions to first electronically register with USCIS during a designated registration period. Unless the registration requirement is suspended by USCIS, in order to properly file an H–1B cap-subject petition, the petitioner must have a selected registration for the beneficiary named in the H–1B cap-subject petition for the applicable fiscal year. In addition, this final rule changes the order in which USCIS selects H–1B beneficiaries who may be counted toward the projected number of petitions needed to reach the H–1B regular cap (65,000) or the H–1B advanced degree exemption allocation (20,000). Under this final rule, USCIS will select registrations (petitions, if the registration requirement is suspended) under the regular cap first, including registrations for beneficiaries eligible for the advanced degree exemption, until the projected number needed to meet the regular cap is reached, and only then will USCIS select registrations that are eligible for the advanced degree exemption until the projected number needed to meet the advanced degree exemption allocation is reached. This change will likely increase the number of beneficiaries with a master's or higher degree from a U.S. institution of higher education that would be selected. However, this rule does not alter the statutory limitations on the numbers of nonimmigrants who may be issued new H–1B visas or granted initial H–1B status, or who will consequently be admitted into the United States as H–1B nonimmigrants, or allowed to change their status to H–1B, or extend their stay in H–1B status. This rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, if NEPA were determined to apply, this rule would be categorically excluded from further NEPA review.

J. Paperwork Reduction Act

USCIS H–1B Registration Tool

The final rule will require that petitioners submit a registration for each beneficiary for whom they wish to file an H–1B cap-subject petition via Form I–129, Petition for Nonimmigrant Worker, unless the registration requirement is suspended by USCIS. USCIS has addressed comments received on the registration information collection in the responses above, and has updated the information collection. USCIS will publish a notice in the **Federal Register** to announce that it is implementing the registration requirement in advance of the cap season during which the registration requirement will be in effect for the first time.

a. *Type of Information Collection:* New information collection.

b. *Abstract:* The data collected during the H–1B Registration process will determine which petitioners will be informed that they may submit a USCIS Form I–129, Petition for Nonimmigrant Worker, as an H–1B cap-subject nonimmigrant petition. USCIS will collect the minimum amount of information needed to identify the prospective H–1B cap-subject petitioner and the named beneficiary, to eliminate duplicate registrations, and to match selected registrations with subsequently filed Form I–129 H–1B cap-subject petitions.

c. *Title of the Form/Collection:* H–1B Registration Tool.

d. *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

e. *Affected public who will be asked or required to respond, as well as a brief abstract:* Business or other for-profit.

f. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection H–1B Registration Tool is 192,918 and the estimated hour burden per response is .5 hours.

g. *Hours per response:* The total estimated annual hour burden associated with this collection is 96,459 hours.

h. *Total Annual Reporting Burden:* The estimated total annual cost burden associated with this collection of information is $0.

USCIS Form I–129

USCIS is revising the estimated number of respondents for Form I–129, Petition for Nonimmigrant Worker, but is not changing the time burden per response as no changes were made to this collection of information.

a. *Type of Information Collection:* Revision of a Currently Approved Collection.

b. *Abstract:* USCIS uses the data collected on this form to determine eligibility for the requested nonimmigrant petition and/or requests to extend or change nonimmigrant status. An employer (or agent, where applicable) uses this form to petition USCIS for an alien to temporarily enter as a nonimmigrant in certain classifications. An employer (or agent, where applicable) also uses this form to request an extension of stay or change of status on behalf of the alien worker. The form serves the purpose of standardizing requests for certain nonimmigrant workers, and ensuring that basic information required for assessing eligibility is provided by the petitioner while requesting that beneficiaries be classified under certain nonimmigrant employment categories. It also assists USCIS in compiling information required by Congress annually to assess effectiveness and utilization of certain nonimmigrant classifications.

c. *Title of the Form/Collection:* Petition for Nonimmigrant Worker.

d. *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129; USCIS.

e. *Affected public who will be asked or required to respond, as well as a brief abstract:* Business or other for-profit.

f. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129 is 294,751 and the estimated hour burden per response is 2.34 hours; the estimated total number of respondents for the information collection E–1/E–2 Classification Supplement to Form I–129 is 4,760 and the estimated hour burden per response is 0.67; the estimated total number of respondents for the information collection Trade Agreement Supplement to Form I–129 is 3,057 and the estimated hour burden per response is 0.67; the estimated total number of respondents for the information collection H Classification Supplement to Form I–129 is 96,291 and the estimated hour burden per response is 2; the estimated total number of respondents for the information collection H–1B and H–1B1 Data Collection and Filing Fee Exemption Supplement is 96,291 and the estimated hour burden per response is 1; the estimated total number of respondents for the information collection L Classification Supplement to Form I–129 is 37,831 and the estimated hour burden per response is 1.34; the estimated total number of respondents for the information collection O and P Classifications Supplement to Form I–129 is 22,710 and the estimated hour burden per response is 1; the estimated total number of respondents for the information collection Q–1 Classification Supplement to Form I–129 is 155 and the estimated hour burden per response is 0.34; the estimated total number of respondents for the information collection R–1 Classification Supplement to Form I–129 is 6,635 and the estimated hour burden per response is 2.34.

g. *Hours per response:* The total estimated annual hour burden associated with this collection is 1,072,810 hours.

h. *Total Annual Reporting Burden:* The estimated total annual cost burden associated with this collection of information is $70,680,553.

USCIS Form G–28

USCIS is revising the estimated number of respondents for Form G–28, Notice of Entry of Appearance as Attorney or Accredited Representative; Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States.

a. *Type of Information Collection:* Revision of a Currently Approved Collection.

b. *Abstract:* The data collected on Forms G–28 and G–28I is used by DHS to determine eligibility of the individual to appear as a representative. Form G–28 is used by attorneys admitted to the practice of law in the United States and accredited representatives of certain non-profit organizations recognized by the Department of Justice. Form G–28I is used by attorneys admitted to the practice of law in countries other than the United States and only in matters in DHS offices outside the geographical confines of the United States. If the representative is eligible, the form is filed with the case and the information is entered into DHS systems for whatever type of application or petition it may be.

c. *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Accredited Representative; Notice of Entry of Appearance as Attorney In matters Outside the Geographical Confines of the United States.

d. *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–28; G–28I; USCIS.

e. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit.

f. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–28 paper filing is 2,638,276 and the estimated hour burden per response is 0.833 hours; the estimated total number of respondents for the information collection G–28 electronic filing is 281,950 and the estimated hour burden per response is 0.667 hours; the estimated total number of respondents for the information collection G–28I is 25,057 and the estimated hour burden per response is 0.700 hours.

g. *Hours per response:* The total estimated annual hour burden associated with this collection is 2,403,285 hours.

h. *Total Annual Reporting Burden:* The estimated total annual cost burden associated with this collection of information is $0.

USCIS ICAM

USCIS is revising the estimated number of respondents for the Identity, Credential, and Access Management (ICAM) information collection.

a. *Type of Information Collection:* Revision of a Currently Approved Collection.

b. *Abstract:* In order to interact with USCIS electronic systems accessible through the USCIS ICAM portal, a first-time user must establish an account. The account creation process requires the user to submit a valid email address; create a password; select their preference for receiving a one-time password (via email, mobile phone, or both); select five password reset questions and responses; and indicate the account type they want to set up (customer or legal representative). The account creation and the account login processes both require the user to receive and submit a one-time password. The one-time password can be provided either as an email to an email address or to a mobile phone via text message.

USCIS ICAM currently grants access to myUSCIS and the information collections available for online filing. ICAM would also be the portal through which accounts to submit H–1B cap registrations would be created and accessed.

c. *Title of the Form/Collection:* USCIS Identity and Credentialing Access Management (ICAM).

d. *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Form; USCIS.

e. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households.

f. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection ICAM is 2,813,225 and the estimated hour burden per response is 0.167 hours.

g. *Hours per response:* The total estimated annual hour burden associated with this collection is 469,809 hours.

h. *Total Annual Reporting Burden:* The estimated total annual cost burden associated with this collection of information is $0.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, DHS amends part 214 of chapter I of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Section 214.2 is amended by:
■ a. Redesignating paragraph (h)(9)(i)(B) as paragraph (h)(2)(i)(I) and revising it;
■ b. Adding paragraph (h)(8)(iii);
■ c. Redesignating paragraph (h)(8)(ii)(F) as paragraph (h)(8)(iii)(F);
■ d. In newly redesignated paragraphs (h)(8)(iii)(F)(*6*)(*i*) and (*ii*), removing the reference to ''(h)(8)(ii)(F)(*6*)'' and adding in its place ''(h)(8)(iii)(F)(*6*)'';
■ e. Removing paragraph (h)(8)(ii)(B);
■ f. Redesignating paragraphs (h)(8)(ii)(C) and (D) as paragraphs (h)(8)(ii)(B) and (C), respectively;
■ g. Redesignating paragraphs (h)(8)(ii)(E) introductory text and (h)(8)(ii)(E)(*1*) through (*6*) as paragraphs (h)(8)(vi) introductory text and (h)(8)(vi)(A) through (F), respectively;
■ h. Adding paragraphs (h)(8)(iv) and (v);
■ i. Adding a heading for newly redesignated paragraph (h)(8)(vi);
■ j. In newly redesignated paragraph (h)(8)(vi)(A), removing the reference to ''(h)(8)(ii)(F)(*3*)'' and adding in its place ''(h)(8)(vi)(C)'';
■ k. In newly redesignated paragraph (h)(8)(vi)(B), removing the references to ''(h)(8)(ii)(F)(*1*)'' and ''(h)(8)(ii)(F)(*3*)'' and adding in their place ''(h)(8)(vi)(A)'' and ''(h)(8)(vi)(C),'' respectively;
■ l. Adding paragraph (h)(8)(vii); and
■ m. Revising paragraph (h)(9)(i).

The additions and revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(i) * * *

(I) *Time of filing.* A petition filed under section 101(a)(15)(H) of the Act may not be filed earlier than 6 months before the date of actual need for the beneficiary's services or training.

* * * * *

(8) * * *

(iii) *H–1B numerical limitations*—(A) *Registration*—(*1*) *Registration requirement.* Except as provided in paragraph (h)(8)(iv) of this section, before a petitioner can file an H–1B cap-subject petition for a beneficiary who may be counted under section 214(g)(1)(A) of the Act (''H–1B regular cap'') or eligible for exemption under section 214(g)(5)(C) of the Act (''H–1B advanced degree exemption''), the petitioner must register to file a petition on behalf of an alien beneficiary electronically through the USCIS website (*www.uscis.gov*). To be eligible to file a petition for a beneficiary who may be counted against the H–1B regular cap or the H–1B advanced degree exemption for a particular fiscal year, a registration must be properly submitted in accordance with 8 CFR 103.2(a)(1), paragraph (h)(8)(iii) of this section and the form instructions. A petitioner may file an H–1B cap-subject petition on behalf of a registered beneficiary only after the petitioner's registration for that beneficiary has been selected for that fiscal year. USCIS will notify the petitioner of the selection of the petitioner's registered beneficiaries.

(*2*) *Limitation on beneficiaries.* A petitioner must electronically submit a separate registration to file a petition for each beneficiary it seeks to register, and each beneficiary must be named. A petitioner may only submit one registration per beneficiary in any fiscal year. If a petitioner submits more than one registration per beneficiary in the

same fiscal year, all registrations filed by that petitioner relating to that beneficiary for that fiscal year will be considered invalid.

(*3*) *Initial registration period.* The annual initial registration period will last a minimum of 14 calendar days and will start at least 14 calendar days before the earliest date on which H–1B cap-subject petitions may be filed for a particular fiscal year, consistent with paragraph (h)(2)(i)(I) of this section. USCIS will announce the start and end dates of the initial registration period on the USCIS website at *www.uscis.gov* for each fiscal year. USCIS will announce the start of the initial registration period at least 30 calendar days in advance of such date.

(*4*) *Limitation on requested start date.* A petitioner may submit a registration during the initial registration period only if the requested start date for the beneficiary is the first day for the applicable fiscal year. If USCIS keeps the registration period open beyond the initial registration period, or determines that it is necessary to re-open the registration period, a petitioner may submit a registration with a requested start date after the first business day for the applicable fiscal year, as long as the date of registration is no more than 6 months before the requested start date.

(*5*) *Regular cap selection.* In determining whether there are enough registrations to meet the H–1B regular cap, USCIS will consider all properly submitted registrations relating to beneficiaries that may be counted under section 214(g)(1)(A) of the Act, including those that may also be eligible for exemption under section 214(g)(5)(C) of the Act.

(*i*) *Fewer registrations than needed to meet the H–1B regular cap.* At the end of the annual initial registration period, if USCIS determines that it has received fewer registrations than needed to meet the H–1B regular cap, USCIS will notify all petitioners that have properly registered that their registrations have been selected. USCIS will keep the registration period open beyond the initial registration period, until it determines that it has received a sufficient number of registrations to meet the H–1B regular cap. Once USCIS has received a sufficient number of registrations to meet the H–1B regular cap, USCIS will no longer accept registrations for petitions subject to the H–1B regular cap under section 214(g)(1)(A). USCIS will monitor the number of registrations received and will notify the public of the date that USCIS has received the necessary number of registrations (the ''final registration date''). The day the public is notified will not control the applicable final registration date. When necessary to ensure the fair and orderly allocation of numbers under Section 214(g)(1)(A) of the Act, USCIS may randomly select the remaining number of registrations deemed necessary to meet the H–1B regular cap from among the registrations received on the final registration date. This random selection will be made via computer-generated selection.

(*ii*) *Sufficient registrations to meet the H–1B regular cap during initial registration period.* At the end of the initial registration period, if USCIS determines that it has received more than sufficient registrations to meet the H–1B regular cap, USCIS will no longer accept registrations under section 214(g)(1)(A) of the Act and will notify the public of the final registration date. USCIS will randomly select from among the registrations properly submitted during the initial registration period the number of registrations deemed necessary to meet the H–1B regular cap. This random selection will be made via computer-generated selection.

(*6*) *Advanced degree exemption selection.* After USCIS has determined it will no longer accept registrations under section 214(g)(1)(A) of the Act, USCIS will determine whether there is a sufficient number of remaining registrations to meet the H–1B advanced degree exemption.

(*i*) *Fewer registrations than needed to meet the H–1B advanced degree exemption numerical limitation.* If USCIS determines that it has received fewer registrations than needed to meet the H–1B advanced degree exemption numerical limitation, USCIS will notify all petitioners that have properly registered that their registrations have been selected. USCIS will continue to accept registrations to file petitions that may be eligible for the H–1B advanced degree exemption under section 214(g)(5)(C) of the Act until USCIS determines that it has received enough registrations to meet the H–1B advanced degree exemption numerical limitation. USCIS will monitor the number of registrations received and will notify the public of the date that USCIS has received the necessary number of registrations (the ''final registration date''). The day the public is notified will not control the applicable final registration date. When necessary to ensure the fair and orderly allocation of numbers under Section 214(g)(1)(A) of the Act, USCIS may randomly select the remaining number of registrations deemed necessary to meet the H–1B advanced degree exemption numerical limitation from among the registrations properly submitted on the final registration date. This random selection will be made via computer-generated selection.

(*ii*) *Sufficient registrations to meet the H–1B advanced degree exemption numerical limitation.* If USCIS determines that it has received more than enough registrations to meet the H–1B advanced degree exemption numerical limitation, USCIS will no longer accept registrations that may be eligible for exemption under section 214(g)(5)(C) of the Act and will notify the public of the final registration date. USCIS will randomly select the number of registrations needed to meet the H–1B advanced degree exemption numerical limitation from among the remaining registrations that may be counted against the advanced degree exemption numerical limitation. This random selection will be made via computer-generated selection.

(*7*) *Increase to the number of registrations projected to meet the H–1B regular cap or advanced degree exemption allocations in a fiscal year.* Unselected registrations will remain on reserve for the applicable fiscal year. If USCIS determines that it needs to increase the number of registrations projected to meet the H–1B regular cap or advanced degree exemption allocation, and select additional registrations, USCIS will select from among the registrations that are on reserve a sufficient number to meet the H–1B regular cap or advanced degree exemption numerical limitation, as applicable. If all of the registrations on reserve are selected and there are still fewer registrations than needed to meet the H–1B regular cap or advanced degree exemption numerical limitation, as applicable, USCIS may reopen the applicable registration period until USCIS determines that it has received a sufficient number of registrations projected as needed to meet the H–1B regular cap or advanced degree exemption numerical limitation. USCIS will monitor the number of registrations received and will notify the public of the date that USCIS has received the necessary number of registrations (the new ''final registration date''). The day the public is notified will not control the applicable final registration date. When necessary to ensure the fair and orderly allocation of numbers, USCIS may randomly select the remaining number of registrations deemed necessary to meet the H–1B regular cap or advanced degree exemption numerical limitation from among the registrations properly submitted on the final registration date. If the registration period will be re-opened, USCIS will announce the start of the re-opened

registration period on the USCIS website at *www.uscis.gov.*

(B) *Confirmation.* Petitioners will receive electronic notification that USCIS has accepted a registration for processing.

(C) *Notification to file H–1B cap-subject petitions.* USCIS will notify all petitioners with selected registrations that the petitioner is eligible to file an H–1B cap-subject petition on behalf of the beneficiary named in the notice within the filing period indicated on the notice.

(D) *H–1B cap-subject petition filing following registration*—(*1*) *Filing procedures.* In addition to any other applicable requirements, a petitioner may file an H–1B petition for a beneficiary that may be counted under section 214(g)(1)(A) or eligible for exemption under section 214(g)(5)(C) of the Act only if the petitioner's registration to file a petition on behalf of the beneficiary named in the petition was selected beforehand by USCIS and only within the filing period indicated on the notice. A petitioner may not substitute the beneficiary named in the original registration or transfer the registration to another petitioner. If a petitioner files an H–1B cap-subject petition based on a registration that was not selected beforehand by USCIS, or based on a registration for a different beneficiary than the beneficiary named in the petition, the H–1B cap-subject petition will be denied or rejected.

(*2*) *Filing period.* An H–1B cap-subject petition must be properly filed within the filing period indicated on the relevant selection notice. The filing period for filing the H–1B cap-subject petition will be at least 90 days. If petitioners do not meet these requirements, USCIS will deny or reject the H–1B cap-subject petition.

(E) *Calculating the number of registrations needed to meet the H–1B regular cap and H–1B advanced degree exemption allocation.* When calculating the number of registrations needed to meet the H–1B regular cap and the H–1B advanced degree exemption numerical limitation for a given fiscal year, USCIS will take into account historical data related to approvals, denials, revocations, and other relevant factors. If necessary, USCIS may increase those numbers throughout the fiscal year.

* * * * *

(iv) *Suspension of registration requirement*—(A) *Determination to suspend registration requirement.* USCIS may suspend the H–1B registration requirement, in its discretion, if it determines that the registration process is inoperable for any reason. If USCIS suspends the registration requirement, USCIS will make an announcement of the suspension on its website (*http://www.uscis.gov*) along with the opening date of the applicable H–1B cap-subject petition-filing period.

(B) *Petition-based cap-subject selections in event of suspended registration process.* In any year in which USCIS suspends the H–1B registration process for cap-subject petitions, USCIS will allow for the submission of H–1B petitions notwithstanding paragraph (h)(8)(iii) of this section and conduct a cap-subject selection process based on the petitions that are received. USCIS will deny petitions indicating that they are exempt from the H–1B regular cap and the H–1B advanced degree exemption if USCIS determines, after the final receipt date, that they are not eligible for the exemption sought. If USCIS determines, on or before the final receipt date, that the petition is not eligible for the exemption sought, USCIS may consider the petition under the applicable numerical allocation and proceed with processing of the petition. If a petition is denied under this paragraph (h)(8)(iv)(B), USCIS will not return or refund filing fees.

(*1*) *H–1B regular cap selection in event of suspended registration process.* In determining whether there are enough H–1B cap-subject petitions to meet the H–1B regular cap, USCIS will consider all petitions properly submitted in accordance with 8 CFR 103.2 relating to beneficiaries that may be counted under section 214(g)(1)(A) of the Act, including those that may be eligible for exemption under section 214(g)(5)(C) of the Act. When calculating the number of petitions needed to meet the H–1B regular cap USCIS will take into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions received and will announce on its website the date that it receives the number of petitions projected as needed to meet the H–1B regular cap (the ''final receipt date''). The date the announcement is posted will not control the final receipt date. When necessary to ensure the fair and orderly allocation of numbers under the H–1B regular cap, USCIS may randomly select via computer-generated selection the remaining number of petitions deemed necessary to meet the H–1B regular cap from among the petitions properly submitted on the final receipt date. If the final receipt date is any of the first five business days on which petitions subject to the H–1B regular cap may be received (*i.e.,* if the cap is reached on any one of the first five business days that filings can be made), USCIS will randomly select from among all the petitions properly submitted during the first five business days the number of petitions deemed necessary to meet the H–1B regular cap. After any random selection under this paragraph (h)(8)(iv)(B)(*1*), petitions that are subject to the H–1B regular cap and that do not qualify for the H–1B advanced degree exemption will be rejected if they are not randomly selected or were received after the final receipt date.

(*2*) *Advanced degree exemption selection in event of suspended registration process.* After USCIS has received a sufficient number of petitions to meet the H–1B regular cap and, as applicable, completed the random selection process of petitions for the H–1B regular cap, USCIS will determine whether there is a sufficient number of remaining petitions to meet the H–1B advanced degree exemption numerical limitation. When calculating the number of petitions needed to meet the H–1B advanced degree exemption numerical limitation USCIS will take into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions received and will announce on its website the date that it receives the number of petitions projected as needed to meet the H–1B advanced degree exemption numerical limitation (the ''final receipt date''). The date the announcement is posted will not control the final receipt date. When necessary to ensure the fair and orderly allocation of numbers under the H–1B advanced degree exemption, USCIS may randomly select via computer-generated selection the remaining number of petitions deemed necessary to meet the H–1B advanced degree exemption numerical limitation from among the petitions properly submitted on the final receipt date. If the final receipt date is any of the first five business days on which petitions subject to the H–1B advanced degree exemption may be received (*i.e.,* if the numerical limitation is reached on any one of the first five business days that filings can be made), USCIS will randomly select from among all the petitions properly submitted during the first five business days the number of petitions deemed necessary to meet the H–1B advanced degree exemption numerical limitation. After any random selection under this paragraph (h)(8)(iv)(B)(*2*), petitions that are not randomly selected or that were received

after the final receipt date will be rejected.

(v) S*everability.* The requirement to submit a registration for an H–1B cap-subject petition and the selection process based on properly submitted registrations under paragraphs (h)(8)(iii) of this section are intended to be severable from paragraph (h)(8)(iv) of this section. In the event paragraph (h)(8)(iii) is not implemented, or in the event that paragraph (h)(8)(iv) is not implemented, DHS intends that either of those provisions be implemented as an independent rule, without prejudice to petitioners in the United States under this regulation, as consistent with law.

(vi) *H–1C numerical limitations.* * * *

(vii) *H–2B numerical limitations.* When calculating the numerical limitations under section 214(g)(1)(B) and 214(g)(10) of the Act for a given fiscal year, USCIS will make numbers available to petitions in the order in which the petitions are filed. USCIS will make projections of the number of petitions necessary to achieve the numerical limit of approvals, taking into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions (including the number of beneficiaries requested when necessary) received and will notify the public of the date that USCIS has received the necessary number of petitions (the ''final receipt date''). The day the public is notified will not control the final receipt date. When necessary to ensure the fair and orderly allocation of numbers subject to the numerical limitations in 214(g)(1)(B) and 214(g)(10) of the Act, USCIS may randomly select from among the petitions received on the final receipt date the remaining number of petitions deemed necessary to generate the numerical limit of approvals. This random selection will be made via computer-generated selection. Petitions subject to a numerical limitation not randomly selected or that were received after the final receipt date will be rejected. Petitions indicating that they are exempt from the numerical limitation but that are determined by USCIS after the final receipt date to be subject to the numerical limit will be denied and filing fees will not be returned or refunded. If the final receipt date is any of the first five business days on which petitions subject to the applicable numerical limit may be received (*i.e.,* if the numerical limit is reached on any one of the first five business days that filings can be made), USCIS will randomly apply all of the numbers among the petitions received on any of those five business days.

(9) * * *

(i) *Approval.* USCIS will consider all the evidence submitted and any other evidence independently required to assist in adjudication. USCIS will notify the petitioner of the approval of the petition on a Notice of Action. The approval notice will include the beneficiary's (or beneficiaries') name(s) and classification and the petition's period of validity. A petition for more than one beneficiary and/or multiple services may be approved in whole or in part. The approval notice will cover only those beneficiaries approved for classification under section 101(a)(15)(H) of the Act.

* * * * *

Kirstjen M. Nielsen,

Secretary.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List January 29, 2019

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